

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA
WINSTON-SALEM DIVISION**

In re: Novant Health, Inc.

LEAD Case No. 1:22-cv-00697
Consolidated with: 1:22-cv-
00700-WO-JEP; 1:22-cv-00709-
WO-JEP, and 1:22-cv-00799-
WO-JEP

**PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Under Federal Rule of Civil Procedure 23(e), Plaintiffs Keith David Allen, Karyn Cook, Daymond Cox, Kevin Curry, Meghan Curry, Dr. Richard Nero, David Novack, Cheryl Taylor, Fernando Valencia, and Natalie Wells-Reye (collectively, "Plaintiffs") respectfully move this Court to enter the proposed Order Granting Preliminary Approval of Class Action Settlement that would (1) preliminarily approve the proposed Settlement Agreement pursuant to Fed. R. Civ. P. 23(c) and (e); (2) preliminarily and conditionally certify the proposed Settlement Class; (3) approve the proposed Class Notice; (4) preliminarily approve Class Counsel and Plaintiffs to represent the Settlement Class; and (5) schedule a Final Approval Hearing to consider final approval of the proposed Settlement, and approval of attorneys' fees, costs, and Service Awards.

Respectfully submitted this the 12th day of October 2023.

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CERTIFICATE OF SERVICE

I hereby certify that on October 12, 2023, I served a copy of the foregoing via electronic filing in the ECF system.

/s/ Scott C. Harris _____

Scott C. Harris

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**PLAINTIFFS' MEMORANDUM IN SUPPORT OF UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

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I. INTRODUCTION

This class action arises out of Defendant Novant Health, Inc.’s (“Novant” or “Defendant”) use of an Internet tracking technology supplied by a third party, called a pixel (referred to as a “Tracking Tool” herein), that allegedly caused certain personal or health-related information to be disclosed to a vendor. Plaintiffs Keith David Allen, Karyn Cook, Daymond Cox, Kevin Curry, Meghan Curry, Dr. Richard Nero, David Novack, Cheryl Taylor, Fernando Valencia, and Natalie Wells-Reyes (collectively, “Plaintiffs” and together with Defendant, the “Parties”) claim that Defendant’s implementation and usage of such Tracking Tools without their authorization resulted in the invasion of Plaintiffs’ and Class Members’ privacy and other common law and statutory violations.

While Defendant denies the Plaintiffs’ allegations and denies any liability, the Parties have determined to settle the Litigation, and thus avoid the expense, risk, exposure, inconvenience, uncertainty, and distraction of continued litigation relating to Defendant’s alleged use of Tracking Tools. As further explained herein, the terms of the proposed Settlement are fair, adequate, and reasonable; the proposed Settlement Class meets the requirements for certification for purposes of settlement; and the proposed notice program provides the best practicable notice under the circumstances and comports with Fed. R. Civ. P 23(c)(2). Accordingly, Plaintiffs respectfully request that the Court take the first step in the approval process and enter the proposed Preliminary Approval Order, which: (1) grants preliminary approval of the proposed Settlement; (2) conditionally certifies for

settlement purposes the Settlement Class contemplated by the Settlement Agreement;¹ (3) orders that the proposed Notice be sent to the Settlement Class; and (4) schedules a final approval hearing to consider final approval of the proposed Settlement, as well as approval of attorneys' fees, costs, and service awards to the Plaintiffs.²

II. BACKGROUND

A. History of the Litigation

The Litigation arose after a letter from Defendant dated on or about August 12, 2022, notified Plaintiffs that Defendant had used an Internet tracking technology supplied by a third party, called a pixel (referred to herein as a "Tracking Tool"), and that, when Plaintiffs used Novant's websites or MyChart patient portal, certain personal or health-related information may have been disclosed in particular circumstances to a vendor. On August 23, 2022, Plaintiffs Kevin Curry and Christine Curry filed a class action complaint in the United States District Court for the Middle District of North Carolina (the "Court") captioned *Kevin Curry v. Novant Health, Inc.*, No. 1:22-cv-00697. Several other cases were filed thereafter and were eventually consolidated under this case number and retitled *In re: Novant Health, Inc.* (the "Litigation").³

¹ The Settlement Agreement ("S.A." or "Settlement Agreement") is attached as **Exhibit 1**. Capitalized terms herein have the same meanings as defined in the Settlement Agreement.

² Plaintiffs will file a separate motion for attorneys' fees, expenses, and Class Representative service awards before filing the motion seeking final approval of the settlement. Plaintiffs have proposed a schedule for the filing of these motions in the Proposed Order.

³ On October 19, 2022, the Court consolidated the following four cases: *Curry v. Novant Health, Inc.*, No. 1:22-cv-00697 (M.D.N.C.); *Novack v. Novant Health, Inc.*, No. 1:22-cv-007 (M.D.N.C.); *Van Allen v. Novant Health, Inc.*, No. 1:22-cv-00709 (M.D.N.C.); and *Wells-Reyes v. Novant Health, Inc.*, No. 1:22-cv-00799 (M.D.N.C.). See Dkt. 8. On November 18, 2022, Plaintiffs filed an Amended Consolidated Complaint adding the claims of Plaintiffs Karyn Cook, Daymond Cox,

B. Settlement Negotiations

After meeting and conferring on multiple occasions regarding settlement, the Parties held a mediation on July 21, 2023 before Hunter R. Hughes. Declaration of Gary M. Klinger in Support of Unopposed Motion for Preliminary Approval of Class Action Settlement (“Klinger Dec.”), ¶ 33 (attached as **Exhibit 2**). The mediation was productive, but did not result in a settlement in principle. *Id.* Over the next several weeks, the Parties continued to negotiate and ultimately reached an agreement in principle on a settlement on August 21, 2023. *Id.* The Parties agreed to resolve all matters pertaining to, arising from, or associated with this Litigation, including all claims Plaintiffs and Settlement Class Members have or may have had against Novant and related persons and entities relating to Defendant’s use of the Tracking Tools. Throughout their negotiations, the Parties engaged in an extensive evaluation and discussion of the relevant facts and law, and the Parties carefully considered the risk and uncertainties of continued litigation. *Id.* The Parties diligently negotiated, drafted, and finalized the Settlement Agreement, notice forms, and claims process. *See Id.*, ¶ 27.

C. Terms of the Settlement

As described in the Settlement Agreement, the settlement benefits are substantial, and will be paid from a \$6,660,000 non-reversionary settlement fund.

Dr. Richard Nero, Cheryl Taylor, and Fernando Valencia. *See* Dkt. 9. On December 28, 2022, *C.C. v. Meta Platforms, Inc.*, No. 1:22-cv-00970 (M.D.N.C.) was directed to be consolidated with the other pending actions in the matter *In re Novant Health, Inc.*, Lead Case No. 1:22-cv-00697.

1. The Settlement Class

The Settlement Class is defined as all individuals residing in the United States who Defendant identified as potentially having their personal or health-related information disclosed to a third party because of Defendant's use of Tracking Tools on Defendant's websites or MyChart patient portal between May 1, 2020 and August 12, 2022. Excluded from the Class are (i) Defendant, any entity in which Defendant has a controlling interest, and Defendant's affiliates, parents, subsidiaries, officers, directors, legal representatives, successors, subsidiaries, and assigns; (ii) any judge, justice, or judicial officer presiding over the Litigation and the members of their immediate families and judicial staff; and (iii) any individual who timely and validly excludes themselves from the Settlement. S.A. ¶ 14(l).

2. The Settlement Benefits

Pursuant to the Settlement, Novant will establish a \$6,660,000 non-reversionary Settlement Fund. *Id.*, ¶¶ 14(nn), 18, 21. Settlement Class Members ("Class Members") will have an opportunity to submit a claim for a pro rata share of the Settlement Fund. *Id.*, ¶ 28. To submit a claim, a Class Member need only submit a Claim Form before the Claim Deadline. *Id.*, ¶ 28, Ex. A. To calculate the Cash Payment to each Class Member, the Settlement Administrator will first distribute monies from the Settlement Fund as outlined in the Settlement Agreement and then divide the Net Settlement Fund pro rata amongst the Class Members who filed valid Claim Forms.

The Parties negotiated the Settlement Benefits (and structure) as fair compensation by discussing the type of personal information allegedly collected and shared, and the

amount of alleged damages this sharing caused Class Members. Here, the benefits to the Class outweigh the risk, time delay, and net expected value of continued litigation. *Six v. LoanCare, LLC*, No. 5:21-cv-451, 2022 WL 16747291, at *3 (S.D. W. Va. Nov. 7, 2022).

3. Administration of Notice and Claims

The Parties have agreed in the Settlement Agreement that Class Counsel will engage Postlethwaite & Netterville (“P&N” or “Settlement Administrator”) to act as the Settlement Administrator to oversee the administration of the Settlement. Declaration of Brandon Schwartz Regarding Proposed Notice Plan and Administration (“Schwartz Dec.”), ¶ 1 (attached as **Exhibit 3**). Notice will be given to the Settlement Class via individual notice, and will be given primarily by direct notice (attached to the Settlement Agreement as Exhibit B) by first-class mail to the postal addresses of Settlement Class Members and via email for all Class Members for whom Defendant has a valid email address. S.A. ¶¶ 43, 45.

The notice documents are clear and concise and directly apprise Settlement Class Members of all the information they need to know to make a claim or to opt-out of or object to the Settlement. Fed. R. Civ. P. 23(c)(2)(B). A Settlement Website will be established and administered by the Settlement Administrator, and shall contain information about the Settlement, including electronic copies of Exhibits A through D to the Settlement Agreement (or any forms of these notices that are approved by the Court), the Settlement Agreement, and all Court documents related to the Settlement. S.A. ¶ 48. The Settlement Website is viewed as an important piece of the notice plan to Class Members. Furthermore,

a toll-free help line shall be made available to provide Settlement Class Members with information relevant to this Settlement. *Id.*

4. Exclusions and Objections

The Notice shall explain the procedure for Settlement Class Members to exclude themselves or “opt-out” of the Settlement by submitting a Request for Exclusion to the Settlement Administrator postmarked no later than the Opt-Out Date. S.A. ¶¶ 48, 61, Exs. B-C. The proposed Opt-Out Date is 60 days after the Notice Date. S.A. ¶ 14(v). The Request for Exclusion must (a) identify the case name and number of the Litigation; (b) state the Settlement Class Member’s full name, address and telephone number; (c) contain the Settlement Class Member’s personal and original signature; (d) state unequivocally the Settlement Class Member’s intent to be excluded from the Settlement; and (e) request exclusion only for that one Settlement Class Member whose personal and original signature appears on the request. All Requests for Exclusion must be submitted individually in connection with a Class Member, i.e., one request is required for every Class Member seeking exclusion. *Id.*, ¶ 62. Any Settlement Class Member who does not file a timely Request for Exclusion will lose the opportunity to exclude himself or herself from the Settlement and will be bound by the Settlement. *Id.*, ¶ 64.

The Notice shall also explain the procedure for Settlement Class Members to object to the Settlement or Fee Application by filing written objections with the Court no later than the Objection Deadline. *Id.*, ¶¶ 54, 57. The proposed Objection Deadline is also 60 days after the Notice Deadline. *Id.* ¶ 57. A written objection must (i) include the case name and number of the Litigation; (ii) set forth the Settlement Class Member’s full name,

current address, telephone number, and email address; (iii) contain the Settlement Class Member's personal and original signature; (iv) if the objecting Settlement Class Member is represented by an attorney, or received assistance from an attorney in drafting his or her objection, the name, address, telephone number, and email address of the attorney; (v) contain a statement indicating the basis for the objecting Settlement Class Member's belief that he or she is a member of the Settlement Class; (vi) state whether the objection applies only to the Settlement Class Member, to a specific subset of the Settlement Class, or to the entire Settlement Class; (vii) set forth a statement of the legal and/or factual basis for the Objection; and (viii) state whether the objecting Settlement Class Member intends to appear at the Final Approval Hearing, and if so, whether personally or through counsel. *Id.*, ¶ 55.

5. Attorneys' Fees, Expenses, and Service Awards to Class Representatives

The Parties did not discuss attorneys' fees or service awards until after the Settlement Fund amount was set. The Settlement Agreement contemplates that 15 days before the Opt-Out and Objection Deadlines Plaintiffs will move the Court for an award of attorneys' fees not to exceed one-third (33%) of the non-reversionary fund, or \$2,220,000, and costs and expenses of no more than \$30,000. S.A. ¶ 65. Plaintiffs will also move the Court for reasonable service awards of \$2,500 per Plaintiff, in recognition of their efforts on behalf of the Class. *Id.*, ¶ 66.

D. Final Approval Hearing

If the proposed Settlement Class is certified and the Settlement preliminarily approved, Plaintiffs respectfully request that the Court set a Final Approval Hearing within

a reasonable time after the Notice Deadline, Objection Deadline, and Opt-Out Date; and at least 90 days after the Settlement Administrator notifies the appropriate government officials of this Settlement Agreement pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1715.

III. LEGAL STANDARDS FOR PRELIMINARY APPROVAL, CONDITIONAL CLASS CERTIFICATION, AND APPROVAL OF THE NOTICE FORM.

A. Preliminary Approval of Settlement

Federal Rule of Civil Procedure 23(e) requires judicial approval of any proposed settlement of claims brought on behalf of a class. *See* Fed. R. Civ. P. 23(e) (“The claims . . . of a certified class—or a class proposed to be certified for purposes of settlement—may be settled . . . only with the court’s approval.”). Courts may approve a proposed class settlement upon a “finding that [the settlement] is fair, reasonable, and adequate.” Fed. R. Civ. P. 23(e)(2). To assist the Court, Rule 23(e)(1)(A) requires the parties to “provide the Court with information sufficient to enable it to determine whether to give notice of the proposal to the class.” Courts in the Fourth Circuit follow a bifurcated approach to determine whether a settlement is “fair, reasonable, and adequate” under Rule 23. *See In re MicroStrategy, Inc. Sec. Litig.*, 148 F. Supp. 2d 654, 663 (E.D. Va. 2001) (citing *In re Jiffy Lube Sec. Litig.*, 927 F.2d 155, 158 (4th Cir. 1991)).

First, at the preliminary approval stage, the court determines whether the proposed Settlement is “within the range of possible approval” or, whether there is “probable cause” to give notice of the proposed Settlement to class members. *See Horton v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 855 F. Supp. 825, 827 (E.D.N.C. 1994). The primary issue

before the Court is whether the proposed Settlement is within the range of what might be found fair, reasonable, and adequate. *Matthews v. Cloud 10 Corp.*, No. 14-00646, 2015 U.S. Dist. LEXIS 114586, at *4 (W.D.N.C. Aug. 27, 2015).

The Fourth Circuit has laid out a series of factors for courts to consider when determining whether a proposed settlement is fair and adequate and, thereby, reasonable. *Jiffy Lube*, 927 F.2d at 159. To determine the fairness of a proposed Settlement, the Court considers: (1) the posture of the case at the time settlement was proposed, (2) the extent of discovery that had been conducted, (3) the circumstances surrounding the negotiations, and (4) the experience of counsel in the area of class action litigation. *Jiffy Lube*, 927 F.2d at 159. There is a “strong presumption in favor of finding a settlement fair.” *Lomascolo v. Parsons Brinckerhoff, Inc.*, No. 1:08cv1310, 2009 WL 3094955, at *10 (E.D. Va. Sept. 28, 2009) (internal quotation omitted). To determine the adequacy of a proposed Settlement, the Court considers: (1) the relative strength of the plaintiff’s case on the merits, (2) the existence of any difficulties of proof or strong defenses the plaintiff is likely to encounter if the case goes to trial, (3) the anticipated duration and expense of additional litigation, (4) the solvency of the defendants and the likelihood of recovery on a litigated judgment, and (5) the degree of opposition to the settlement. *Id.* at 159; *MicroStrategy*, 148 F. Supp. 2d at 665.

In making the determination of preliminary approval, the Court does not answer the ultimate question of whether the proposed Settlement is fair, reasonable, and adequate; this analysis is reserved for the second stage of the settlement approval process. Instead, the first stage of the settlement approval process is focused on whether the settlement is

sufficiently adequate to permit notice to be sent to the class. *See Hall v. Higher One Machines, Inc.*, No. 5-15-CV-670-F, 2016 WL 5416582, at *5 (E.D.N.C. Sept. 26, 2016) (“If the proposed settlement is preliminarily acceptable, the court then directs that notice be provided to all class members who would be bound by the proposed settlement in order to afford them an opportunity to be heard on, object to and opt out of the settlement.”). “There is a strong judicial policy in favor of settlement, in order to conserve scarce resources that would otherwise be devoted to protracted litigation.” *Covarrubias v. Capt. Charlie’s Seafood, Inc.*, No. 2:10-CV-10-F, 2011 WL 2690531, at *2 (E.D.N.C. July 6, 2011).

B. Conditional Class Certification

“When a settlement is reached prior to Rule 23 certification, the law permits a class to be certified solely for the purposes of settlement.” *Gamas v. Scott Farms, Inc.*, No. 5:13-CV-447-FL, 2014 WL 12546373, at *2 (E.D.N.C. Dec. 24, 2014). A district court faced with a settlement-only class need not inquire whether the class would present intractable problems with trial management, but must analyze whether the other requirements for certification must have been satisfied. *Amchem Products, Inc. v. Windsor*, 521 U.S. 591, 620 (1997). To approve a class settlement, the Court must still consider the requirements for class certification under Rule 23. *In re NeuStar, Inc. Sec. Litig.*, No. 1:14CV885, 2015 WL 5674798, at *2 (E.D. Va. Sept. 23, 2015). The Settlement Class must also satisfy one of the categories of Rule 23(b). *Id.* However, the Court may disregard the manageability concerns of Rule 23(b)(3) because the Court may properly consider that there will be no trial. *See Amchem*, 521 U.S. at 620.

C. Notice Form Approval

As part of the preliminary approval process, the district court must also approve the notice of the settlement that the Parties propose be sent to Class Members. *See* Fed. R. Civ. P. 23(c)(2)(B). The notice must comport with due process and provide the “the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort.” *Id.*; *accord Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 177 (1974). Rule 23 leaves the form of the notice to the Court’s discretion. *See Fisher v. Va. Elec. & Power Co.*, 217 F.R.D. 201, 227 (E.D. Va. 2003) (“a court may exercise its discretion to provide the best notice practicable under the circumstances.”); *see also* Fed. R. Civ. P. 23(c)(2)(B).

IV. ARGUMENT

The proposed Settlement warrants preliminary approval. Evaluation under the enumerated *Jiffy Lube* and Rule 23 factors set out above confirms that the proposed Settlement is fair, adequate, and reasonable; accordingly, the Court should grant preliminary approval, and issue notice of the Settlement to the Settlement Class.

A. The Class Was Adequately Represented.

“[T]he adequacy requirement is met when: (1) the named plaintiff does not have interests antagonistic to those of the class; and (2) plaintiff’s attorneys are qualified, experienced, and generally able to conduct the litigation.” *Brown v. Transurban USA, Inc.*, 318 F.R.D. 560, 567 (E.D. Va. 2016) (citation omitted). Here, the Settlement Class Representatives have the same interests as other class members as they are asserting the same claims and share the same injuries.

Further, Class Counsel has the experience and qualifications to lead this litigation and the record shows Class Counsel worked diligently to litigate and ultimately bring this case to resolution. *See In re Lumber Liquidators Chinese-Manufactured Flooring Prod. Mktg., Sales Practices & Prod. Liab. Litig.*, 952 F.3d 471, 485 (4th Cir. 2020) (finding counsel’s experience in complex civil litigation supported fairness of settlement).

B. The Proposed Settlement Was Negotiated at Arm’s Length.

The Court can safely conclude this Settlement was negotiated at arm’s length, without collusion, based on the terms of the Settlement itself and the length and difficulty of the negotiations. *See In re NeuStar*, 2015 WL 5674798, at *10 (adversarial encounters support a finding of arms’ length negotiations). This factor supports a finding that the Court will likely be able to finally approve the Settlement.

C. The Relief is Fair, Reasonable, and Adequate.

The relief offered to Class Members in the proposed Settlement is more than adequate under the factors outlined in Rule 23(e)(2)(C). The Settlement establishes a \$6,660,000 non-reversionary common fund from which Settlement Class Members are entitled to make a claim for a pro rata share of the fund (after the payment of costs and expenses as outlined in the Settlement Agreement).

Class Counsel, a group with a wealth of experience in leading major data privacy class actions, strongly believe that the relief is fair, reasonable, and adequate. Klinger Dec., ¶ 30. The Court may rely upon such experienced counsel’s judgment. *See, e.g., Nelson v. Mead Johnson & Johnson Co.*, 484 F. App’x 429, 434 (11th Cir. 2012) (“Absent fraud,

collusion, or the like, the district court should be hesitant to substitute its own judgment for that of counsel.”)

That the relief is fair, reasonable, and adequate is further confirmed by considering the four specific factors enumerated in Fed. R. Civ. P 23(e)(2).

1. The costs, risk, and delay of trial and appeal.

Plaintiffs believe their claims are viable and that Defendant is likely to be found liable under at least some of the liability theories and statutory and common law claims Plaintiffs pled in their operative complaint. While Plaintiffs believe they have strong claims and would prevail, success is not guaranteed. The value achieved through the Settlement Agreement is guaranteed, where chances of prevailing on the merits are uncertain — especially where serious questions of law and fact exist, which is common in data security incident litigation. This field of litigation is evolving; there is no guarantee of the ultimate result. *See Gordon v. Chipotle Mexican Grill, Inc.*, No. 17-cv-01415-CMA-SKC, 2019 WL 6972701, at *1 (D. Colo. Dec. 16, 2019) (“Data breach cases . . . are particularly risky, expensive, and complex.”).

While Plaintiffs have arguments and authorities that can support their allegations, the number of issues in this case, which center on a developing area of law—Meta Pixel litigation—create significant uncertainty. In fact, the Court has already granted Defendant’s motion to dismiss certain of Plaintiffs’ claims. Thus, despite Plaintiffs’ confidence in the strength of this case, numerous legal issues and factual disputes exist that undermine the certainty of a more favorable outcome for the Settlement Class.

Additionally, there are inherent risks associated with taking any novel class action to trial, including pre-trial risks of obtaining class certification and defeating summary judgment. Even if class certification is obtained and Plaintiffs are successful at trial, or, alternatively, if Novant obtains summary judgment, Novant or Plaintiffs would likely appeal, causing further delay and raising expenses. The Settlement allows for Class Members to obtain benefits within the near future—as opposed to potentially waiting for years—and eliminates the possibility of receiving no benefits.

Moreover, the complexity, length, and expense of further litigation favors settlement now. Continued litigation would likely involve costly discovery involving experts regarding damages, motions for summary judgment, a motion for class certification, and one or more interlocutory appeals, all of which would delay final resolution. Litigating this case to a favorable conclusion will require a considerable amount of time and resources and weighs in favor of accepting the Settlement now. *In re Peanut Farmers Antitrust Litig.*, No. 2:19-CV-00463, 2021 WL 3174247 (ED. Va. July 27, 2021). This factor also weighs in favor of preliminary approval. Thus, given the risks Plaintiffs face going forward, the amount offered in Settlement—both monetary and non-monetary—is well-balanced against the hurdles Plaintiffs will have to overcome to find success later down the road.

2. The method of distributing relief is effective.

The proposed distribution process will be efficient and effective. The available relief is detailed clearly in the Notice, which will be provided to all Settlement Class Members and lays out the benefits to which they are entitled. Because Settlement Class Members

may make claims through a simple online form or by mail, the method of distributing the relief is both efficient and effective.

3. The terms relating to attorneys' fees are reasonable.

Class Counsel will request an award of attorneys' fees not to exceed 33% of the Settlement Fund, or \$2,220,000, and reasonable litigation expenses not to exceed \$30,000. Under the Settlement Agreement, Plaintiffs' request for Attorneys' Fees and Expenses must be filed with the Court at least 15 days before the Objection Deadline and Opt-Out Date. The ultimate fee award will be determined in the discretion of the Court following an application to the Court based on Fourth Circuit law and with the opportunity for comment from Settlement Class Members. Importantly, the Settlement Agreement is not conditioned upon the Court's approval of the fee award.

Class Counsel will request service awards of \$2,500 for each of the named Plaintiffs. Service awards of this size are reasonable. *See In re Lumber Liquidators Chinese-Manufactured Flooring Durability Mktg.*, No. 115MD2627AJTTRJ, 2020 WL 5757504, at *3 (E.D. Va. Sept. 4, 2020) (granting service award of \$5,000). The Settlement Agreement is not conditioned on the Court's approval of this request.

4. Any agreement required to be identified under Rule 23(e)(3).

Rule 23(e) mandates that "[t]he parties seeking approval must file a statement identifying any agreement made in connection with the proposal." Fed. R. Civ. P. 23(e)(2)-(3). Here, there are no additional agreements.

5. The Proposed Settlement Treats Class Members Equitably.

Finally, the proposed Settlement treats all class members equitably relative to each other. Fed. R. Civ. P. 23(e)(2)(D). All Settlement Class Members will have the same opportunity to file a claim for a pro rata share of the Settlement Fund. There is no cap on the total number of claims, meaning that no Class Member will obtain any greater relative benefit over another. Importantly, direct Notice will be sent to Settlement Class Members, and all Settlement Class Members will also have the opportunity to object to or exclude themselves from the Settlement. The only distinction in treatment of Settlement Class Members is that named Plaintiffs will each be seeking a \$2,500 award for their services on behalf of the Settlement Class. This factor also supports approval.

D. The Class Should Be Conditionally Certified for Settlement Purposes.

When presented with a settlement-only class, a district court must determine whether a class meets the requirements of Federal Rules 23(a) and 23(b)(2) or 23(b)(3)—save for evaluation of any class manageability issues at trial. *Amchem*, 521 U.S. at 591, 617, 620. Settlement classes are routinely certified in similar cases dealing with consumer data privacy.⁴ There is nothing different about this case, which is demonstrated by examining the requirements of Rule 23(a) and (b).

⁴ See, e.g., *In re Capital One Consumer Data Sec. Breach Litig.*, No. 1:19md2915 (AJT/JFA), Doc. 118 (E.D. Va. Feb. 7, 2022); *Abubaker v. Dominion Dental USA, Inc.*, No. 1:19-cv-01050, 2021 WL 6750844 (E.D. Va. Nov. 19, 2021); *Hutton v. Nat'l Bd. of Examiners in Optometry, Inc.*, No. 1:16-c-03025, 2019 WL 3183651 (D. Md. July 15, 2019); *In re Equifax Inc. Customer Data Sec. Breach Litig.*, No. 1:17-md-2800, 2020 WL 256132 (N.D. Ga. Mar. 17, 2020), *aff'd* in relevant part 999 F.3d 1247 (11th Cir. 2021), cert. denied sub nom. *Huang v. Spector*, 142 S. Ct. 431 (2021), and cert. denied sub nom. *Watkins v. Spector*, No. 21-638, 142 S.Ct. 765 (U.S. 2022); *In re Anthem, Inc. Data Breach Litig.*, 327 F.R.D. 299 (N.D. Cal. 2018).

1. The Settlement Class Satisfies the Requirements of Rule 23(a)

Certification is appropriate under Rule 23(a) if: “(1) the class is so numerous that joinder of all members is impracticable; (2) there are questions of law or fact common to the class; (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and (4) the representative parties will fairly and adequately protect the interests of the class.” Fed. R. Civ. P. 23(a).

a. Numerosity

Rule 23(a)(1) demands evidence that “the class is so numerous that joinder of all members is impracticable.” Fed. R. Civ. P. 23(a)(1). No set minimum number of potential class members is required to fulfill the numerosity requirement. *Sanchez-Rodriguez v. Jackson's Farming Co. of Autryville*, No. 7:16-CV-28-D, 2017 WL 396667, at *2 (E.D.N.C. Jan. 27, 2017). Here, the proposed Settlement Class satisfies numerosity because the Settlement Class contains approximately 1,362,165 Class Members. Schwartz Dec., ¶ 9; S.A. ¶ 14(II).

b. Commonality

The Settlement Class meets Rule 23’s “commonality” requirement because “there are questions of law or fact common to the class.” Fed. R. Civ. P. 23(a)(2). The requirement is “liberally construed . . . a class action will not be defeated solely because there are some factual variations among the members’ grievances.” *Rodger v. Elec. Data Sys. Corp.*, 160 F.R.D. 532, 537 (E.D.N.C. 1995). Commonality “does not require that all questions of law or fact in a case be common to each class member, rather, only a single common question must exist.” *Id.* With respect to commonality, “[w]hat matters to class certification is the

capacity of a classwide proceeding to generate common answers apt to drive the resolution of the litigation.” *Wal-Mart Stores, Inc., v. Dukes*, 564 U.S. 338, 350 (2011).

Rule 23(a)(2)’s commonality requirement is met where, as here, the defendant engaged in a common course of conduct. *Fisher v. Virginia Elec. & Power Co.*, 217 F.R.D. 201, 223 (E.D. Va. 2003). Here, all Settlement Class Members suffered the same alleged injury and are asserting the same legal claims. These raise a number of common questions, including but not limited to,

- a. Whether Defendant owed a legal duty to not disclose Plaintiffs’ and Class Members’ personal or health-related information;
- b. Whether Defendant breached a legal duty to Plaintiffs and Class Members to exercise due care in collecting, storing, using, and safeguarding their Private Information;
- c. Whether Defendant failed to comply with its own policies and applicable laws, regulations, and industry standards relating to data security;
- d. Whether Defendant adequately and accurately informed Plaintiffs and Class Members that their Private Information would be disclosed to third parties;
- e. Whether Defendant failed to implement and maintain reasonable security procedures and practices appropriate to the nature and scope of the information disclosed to third parties; and
- f. Whether Class Members are entitled to actual, consequential, and/or nominal damages, and/or injunctive relief as a result of Defendant’s alleged wrongful conduct.

These common questions, and others alleged by Plaintiffs in their operative Complaint, are central to the causes of action brought here and can be addressed on a class-wide basis. Thus, Plaintiffs have met the commonality requirement of Rule 23.

Accordingly, common questions of law and fact abound. *See, e.g., Dominion*, 2021 WL 6750844, at *3; *Equifax*, 2020 WL 256132, at *11-12; *Anthem*, 327 F.R.D. at 309.

c. Typicality

Class Representatives for the Settlement Class fulfill Rule 23(a)'s "typicality" requirement because "the claims or defenses of the representative parties are typical of the claims or defenses of the class." Fed. R. Civ. P. 23(a)(3). The "typicality" requirement does not require the Class Representatives to have identical facts and legal claims as the class; rather, the claims "cannot be so different from the claims of absent class members that their claims will not be advanced by [Class Representatives'] proof of [their] own individual claim[s]." *Beaulieu v. EQ Indus. Servs., Inc.*, No. 5:06-CV-00400BR, 2009 WL 2208131, at *13 (E.D.N.C. July 22, 2009). For typicality to be satisfied, the "representative party's interest in prosecuting his own case must simultaneously tend to advance the interests of the absent class members." *Deiter v. Microsoft Corp.*, 436 F.3d 461, 466 (4th Cir. 2006). "Generally, the court must determine whether the asserted claims 'arise from the same event or practice or course of conduct and are based on the same legal theories as the claims of the unnamed class members.'" *Id.* at *40 (citing *Rodger*, 160 F.R.D. at 538).

This requirement is readily satisfied in cases like this one. The legal and factual arguments that the Plaintiffs representing the Settlement Class advance are the same arguments that other Settlement Class Members would advance in support of their claims. In this case, "[b]ecause the claims of the representative parties are the same as the claims of the class, the typicality requirement is satisfied." *Thorn v. Jefferson-Pilot Life Ins. Co.*,

445 F.3d 311, 339 (4th Cir. 2006).

d. Adequate Representation

Plaintiffs meet Rule 23(a)(4)'s adequacy requirement because Class Representatives have “common interests with unnamed members of the class” and “vigorously prosecute[d] the interests of the class through qualified counsel.” *Beaulieu*, 2009 WL 2208131, at *15 (citing *Olvera-Morales v. Intern. Labor Mgmt Corp.*, 246 F.R.D. 250, 258 (M.D.N.C. 2007)). Here, the interests of the Class Representatives fully align with the members of the Settlement Class. As discussed above, Plaintiffs are prosecuting the same claims as the Settlement Class, and these claims arise out of the same course of conduct by Novant, and rest on the same legal theory – whether Novant owed Plaintiffs and Class Members a duty to adequately protect their personal and health-related information and whether it breached those duties. The Class Representatives have also demonstrated their commitment to monitor and supervise the prosecution of the case on behalf of the Settlement Class.

Furthermore, the Class Representatives have protected the interests of the Settlement Class by retaining qualified, experienced counsel to represent the Settlement Class. Class Counsel have litigated this case vigorously. Klinger Dec., ¶ 26. Class Counsel are nationally recognized for prosecuting large, complex class actions, and have effectively represented numerous plaintiffs in many other data privacy class actions. *Id.*, ¶ 25. Thus, per Rule 23, Class Representatives and Class Counsel provide adequate representation of the Settlement Class.

e. Ascertainability

Rule 23 also contains the implied requirement that the court be able to “readily identify the class members in reference to objective criteria.” *EQT Production Co. v. Adair*, 764 F.3d 247, 358 (4th Cir. 2014). A proposed class representative “need not be able to identify every class member at the time of certification.” *Id.* “[E]xtensive and individualized fact-finding” or “mini-trials” render certification inappropriate. *Id.* (quoting *Marcus v. BMW of N. Am., LLC*, 687 F.3d 583, 593 (3d Cir. 2012)). Here, Defendant identified each member of the Class and sent them notice that Novant had used an Internet tracking technology supplied by a third party, which may have led to the disclosure of certain personal or health-related information to a vendor when the individuals used Defendant’s websites or MyChart patient portal.

2. The Settlement Class Satisfies the Requirements of Rule 23(b)(3)

Because the Settlement Class seeks to recover damages, the Court must also determine whether the Class complies with the commonality and superiority requirements of Fed. R. Civ. P. 23(b)(3). Both requirements are satisfied here.

a. Common Questions of Law and Fact Predominate.

The Settlement Class satisfies the predominance inquiry because the ““proposed classes are sufficiently cohesive to warrant adjudication by representation.”” *Beaulieu*, 2009 WL 2208131, at *20 (citing *Amchem*, 521 U.S. at 623). “The inquiry with respect to the predominance standard focuses on the issue of liability, and if the liability issue is common to the class, common questions are held to predominate over individual ones.” *In re Red Hat, Inc. Sec. Litig.*, 261 F.R.D. 83, 89-90 (E.D.N.C. 2009) (internal citation

omitted); accord *McLaurin v. Prestage Foods, Inc.*, 271 F.R.D. 465, 478 (E.D.N.C. 2010) (“common evidence . . . would establish a prima facie case for the class.”).

Here, the numerous questions common to the Class, including those listed above, demonstrate commonality within the meaning of the statute, and predominate over any individual issues. The key elements of Plaintiffs’ claims—whether Defendant owed a legal duty not to disclose Plaintiffs’ and Class Members’ personal and health-related information, whether that duty was breached, and whether Plaintiffs and Class Members are entitled to compensation as a result of that potential breach—are common issues, and thus the class is “sufficiently cohesive to warrant adjudication by representation,” *Amchem*, 521 U.S. at 623.

b. Class Resolution of this Action is Superior to Other Methods of Adjudication.

Litigating the same claims of approximately 1,300,000 persons through individual litigation would obviously be inefficient. The superiority requirement thus is satisfied. *See Equifax*, 2020 WL 256132, at *14; *Anthem*, 327 F.R.D. at 315-16. This case also presents a disincentive to pursue individual lawsuits because the prospect of small individual recoveries is dwarfed by the cost of litigation. Class treatment is undeniably superior to individual adjudications.

V. PLAINTIFFS’ NOTICE FORM AND PLAN SATISFY THE REQUIREMENTS OF THIS COURT.

As outlined above, the Notice provided satisfies Rule 23 requirements. The proposed Notices (Exhibits B and C to the Settlement Agreement) provide clear and accurate information as to: (1) a summary of the complaint and the nature and principal

terms of the Settlement; (2) the definitions of the Settlement Class; (3) the claims and defenses alleged; (4) the procedures and deadlines for opting-out of the proposed Settlement or submitting objections and the date, time and place of the Final Approval Hearing; and (5) the consequences of taking or foregoing the options available to Class Members. The proposed Notice informs Class Members about the attorneys' fees and costs that may be sought by proposed Class Counsel, pursuant to Fed. R. Civ. P. 23(h), and the identities and contact information for Class Counsel, Counsel for Defendant, and the Court. The Notice Program complies with the standards of fairness, completeness, and neutrality required of a settlement class notice disseminated under authority of the Court. *See, e.g.*, Manual Fourth § 21.311-21.312.

VI. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court: (1) preliminarily approve the proposed Settlement Agreement pursuant to Fed. R. Civ. P. 23(c) and (e); (2) preliminarily and conditionally certify the proposed Settlement Class; (3) approve the proposed Class Notice; (4) preliminarily approve Class Counsel and Plaintiffs to represent the Settlement Class; and (5) schedule a Final Approval Hearing to consider final approval of the proposed Settlement, and approval of attorneys' fees, costs, and Service Awards.

Respectfully submitted this the 12th day of October 2023.

/s/ Scott C. Harris

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LOCAL RULE 7.3(d)(1) WORD COUNT CERTIFICATION

I hereby certify, on October 12, 2023, that this Brief complies with Local Rule 7.3(d)(1) in that it does not exceed 6,250 words in length, including the body of the brief, headings, and footnotes.

/s/ Scott C. Harris _____
Scott C. Harris

CERTIFICATE OF SERVICE

I hereby certify that on October 12, 2023, I served a copy of the foregoing via electronic filing in the ECF system.

/s/ Scott C. Harris
Scott C. Harris

EXHIBIT 1

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the “Agreement” or “Settlement Agreement”) is entered into by and between Novant Health, Inc. (the “Defendant” or “Novant”) and Keith David Allen, Karyn Cook, Daymond Cox, Kevin Curry, Meghan Curry, Dr. Richard Nero, David Novack, Cheryl Taylor, Fernando Valencia, and Natalie Wells-Reyes (the “Plaintiffs” and, together with Defendant, the “Parties”), individually and on behalf of the Settlement Class (as defined below), by and through their respective counsel.

I. Recitals

1. Novant Health, Inc. is a health care system based in Winston-Salem, North Carolina. Novant’s affiliates experience more than 6 million patient encounters annually.

2. On August 23, 2022, Plaintiffs Kevin Curry and Christine Curry filed a class action complaint in the United States District Court for the Middle District of North Carolina (the “Court”) captioned *Kevin Curry, et al. v. Novant Health, Inc.*, Case No. 1:22-cv-00697. Several other cases were filed thereafter and were eventually consolidated under this case number and retitled, *In re: Novant Health, Inc.* (the “Litigation”).¹

3. The Litigation arose after a letter from Defendant, dated on or about August 12, 2022, notified Plaintiffs that Defendant had used an Internet tracking technology supplied by a third party, called a pixel (referred to as a “Tracking Tool” herein), which may have led to the

¹ On October 19, 2022, the Court consolidated the following four cases: *Kevin Curry, et al., v. Novant Health, Inc.*, Case No. 1:22-cv-00697 (M.D.N.C.); *David Novack v. Novant Health, Inc.*, Case No. 1:22-cv-00700 (M.D.N.C.); *Keith Van Allen v. Novant Health, Inc.*, Case No. 1:22-cv-00709 (M.D.N.C.); and *Natalie Wells-Reyes v. Novant Health, Inc.*, Case No. 1:22-cv-00799 (M.D.N.C.). See Dkt. 18. On December 28, 2022, a fifth case, captioned *C.C. v. Meta Platforms, Inc., et al.*, Case No. 1:22-cv-970 (M.D.N.C.) was also consolidated with the other related cases.

On November 18, 2022, Plaintiffs filed an Amended Consolidated Complaint (“Complaint”) incorporating the claims of Plaintiffs Keith David Allen, Karyn Cook, Kevin Curry, Meghan Curry, Daymond Cox, Dr. Richard Nero, David Novack, Cheryl Taylor, Fernando Valencia, and Natalie Wells-Reyes. See Dkt. 20. This Agreement is intended to fully resolve each of these actions.

disclosure of certain personal or health-related information to a vendor (the “Pixel Disclosure”). Plaintiffs claim that Defendant’s implementation and usage of such Tracking Tools allegedly resulted in the invasion of Plaintiffs’ and Settlement Class Members’ privacy and other alleged common law and statutory violations.

4. On December 23, 2022, Defendant filed a motion to dismiss Plaintiffs’ Complaint in its entirety. Dkt. 25. Defendant’s Motion was fully briefed as of February 10, 2023. Dkt. 34.

5. While Defendant’s Motion was pending, the Parties participated in a mediation with skilled mediator Hunter Hughes. With the assistance of Mr. Hughes, and prior to the Court ruling on Defendant’s Motion, the Parties reached an agreement in principle to resolve the Litigation.

6. Defendant denies all claims asserted against it in the Litigation, denies all allegations of wrongdoing and liability, and denies all material allegations of the Complaint.

7. Class Counsel (defined below) have investigated the facts relating to the claims and defenses alleged and the underlying events in the Litigation, have made a thorough study of the legal principles applicable to the claims and defenses asserted in the Litigation, and have conducted a thorough assessment of the strengths and weaknesses of the Parties’ respective positions.

8. The Parties desire to settle the Litigation and all claims arising out of or related to the allegations or subject matter of the Complaint, the Litigation, the Pixel Disclosure, and/or Defendant’s use of any Tracking Tools on the terms and conditions set forth herein for the purpose of avoiding the burden, expense, risk, and uncertainty of continuing the Litigation.

9. Plaintiffs and Class Counsel, on behalf of the Settlement Class (as defined below), have concluded—based upon their pre-suit investigation, informal discovery for settlement purposes, and taking into account the contested issues involved, the expense and time necessary

to prosecute the Litigation through trial, the risks and costs associated with further prosecution of the Litigation, the uncertainties of complex litigation, the desired outcome from continued litigation, and the substantial benefits to be received pursuant to this Settlement Agreement—that a settlement with Defendant on the terms set forth herein is fair and reasonable and in the best interest of Plaintiffs and the Settlement Class. Plaintiffs and Class Counsel believe that the Settlement reflected in this Settlement Agreement confers substantial benefits upon the Settlement Class.

10. The Settlement Agreement allocates the Settlement Fund as follows:
 - a. Settlement Class Representative Service Awards;
 - b. Class Counsel’s Attorneys’ Fees and Expenses Award;
 - c. the Settlement Administrator’s Notice and Settlement Administration Costs;
 - d. a *pro rata* cash payment to all Class Members submitting valid Claim Forms under the Settlement; and
 - e. any uncashed funds remaining after the *pro rata* distribution will be considered Residual Funds and distributed via *cy pres* distribution as designated in Paragraph 14.

11. The Parties agree and understand that neither this Settlement Agreement, nor the Settlement it represents, shall be construed as an admission by Defendant of any wrongdoing whatsoever, including an admission of a violation of any statute or law or of liability on the claims or allegations in the Litigation or any other similar claims in other proceedings, or that any such claims would be suitable for class treatment.

12. The Settlement Agreement is intended to fully, finally, and forever resolve all claims and causes of action asserted, and that could have been asserted, based upon the facts alleged in the Complaint, against Defendant and the Released Persons, by and on behalf of the Plaintiffs and Settlement Class Members (as defined in Paragraph 14 below).

13. The Parties, by and through their respective duly authorized counsel of record, and intending to be legally bound hereby, agree that, subject to the approval of the Court as provided for in this Agreement, the Litigation, all matters and claims in the Complaint, and all matters and claims arising out of or related to the allegations or subject matter of the Complaint, the Litigation, the Pixel Disclosure, and/or Defendant's use of any Tracking Tools shall be settled, compromised, and dismissed, on the merits and with prejudice, upon the following terms and conditions.

II. Definitions

14. As used herein and in the related documents attached hereto as exhibits, the following terms have the meanings specified below:

- a. **"Agreement"** or **"Settlement Agreement"** means this settlement agreement, including all exhibits, which the Parties understand and agree set forth all material terms and conditions of the Settlement of the Litigation between them and which is subject to approval by the Court.
- b. **"Attorneys' Fees and Expenses Award"** means the amount awarded by the Court to be paid to Class Counsel from the Settlement Fund, such amount to be in full and complete satisfaction of Class Counsel's claim or request (and any request made by any other attorneys) for payment of reasonable attorneys' fees and Litigation Expenses incurred in respect of the Litigation.
- c. **"Claim Form"** means the claim form that will be mailed and/or emailed to Settlement Class Members whereby they may receive a cash payment under the Settlement, substantially in the form attached hereto as **Exhibit A**.
- d. **"Claim Deadline"** is the date by which Settlement Class Members must submit a valid Claim Form to receive a cash payment under the Settlement. The Claim Deadline is ninety (90) Days after the Notice Date.
- e. **"Class Counsel"** shall mean Gary M. Klinger, Alexandra M. Honeycutt, and Scott Harris of Milberg Coleman Bryson Phillips Grossman, PLLC; Terence R. Coates of Markovits, Stock & DeMarco, LLC; Bryan L. Bleichner of Chestnut Cambronne PA; M. Anderson Berry of Clayco C. Arnold, A Professional Law Corp.; Rachele R. Byrd of Wolf Haldenstein Adler Freeman & Herz LLP; and Joseph M. Lyon of The Lyon Law Firm.
- f. **"Class Notice"** means the notice of this Settlement, which shall include the Long-Form Notice and Short-Form or Postcard Notice, substantially in the form attached hereto as **Exhibits B and C**, respectively.

- g. “**Court**” means the United States District Court for the Middle District of North Carolina.
- h. “**Day(s)**” means calendar days but does not include the day of the act, event, or default from which the designated period of time begins to run. Further, and notwithstanding the above, when computing any period of time prescribed or allowed by this Settlement Agreement, “Days” includes the last day of the period unless it is a Saturday, a Sunday, or a federal legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or federal legal holiday.
- i. “**Defendant’s Counsel**” means David L. Balser and Robert D. Griest of King & Spalding LLP; and Jim W. Phillips, Jr., Jennifer K. Van Zant, and S. Wilson Quick of Brooks, Pierce, McLendon, Humphrey & Leonard, LLP.
- j. “**Effective Date**” means the date defined in Paragraph 91 of this Settlement Agreement.
- k. “**Final**” with respect to a judgment or order means that the following have occurred: (i) the expiration of all deadlines to notice any appeal; (ii) if there is an appeal or appeals, the completion, in a manner that finally affirms and leaves in place the judgment or order without any material modification, of all proceedings arising out of the appeal or appeals (including, but not limited to, the expiration of all deadlines for motions for reconsideration, rehearing en banc, or petitions for review and/or certiorari, all proceedings ordered on remand, and all proceedings arising out of any subsequent appeal or appeals following decisions on remand).
- l. “**Final Approval Hearing**” means the hearing at which the Court will determine whether the Settlement should be given final approval pursuant to Federal Rule of Civil Procedure 23 and whether any Attorneys’ Fees and Expenses Award and Settlement Class Representative Service Awards should be approved.
- m. “**Final Approval Order and Judgment**” means an order and judgment that the Court enters after the Final Approval Hearing which, among other things, finally approves the Settlement, certifies the Settlement Class, dismisses the Litigation with prejudice, and otherwise satisfies the settlement-related provisions of Federal Rule of Civil Procedure 23 in all respects.
- n. “**Litigation Expenses**” means costs and expenses incurred by Class Counsel in connection with commencing, prosecuting, mediating, and settling the Litigation, and obtaining a Final Approval Order and Judgment.
- o. “**Long-Form Notice**” means the written notice substantially in the form of **Exhibit B** to this Settlement Agreement.
- p. “**Notice and Settlement Administration Costs**” means all approved

reasonable costs incurred or charged by the Settlement Administrator in connection with providing notice to members of the Settlement Class, processing claims, and otherwise administering the Settlement including issuing any notice required under the Class Action Fairness Act, 28 U.S.C. § 1715. This does not include any separate costs incurred directly by Defendant or any of Defendant's attorneys, agents, or representatives in this Litigation.

- q. “**Net Settlement Fund**” means the amount of funds that remain in the Settlement Fund after funds are paid from or allocated for payment from the Settlement Fund for the following: (i) reasonable Notice and Settlement Administration Costs incurred pursuant to this Settlement Agreement; (ii) any taxes owed by the Settlement Fund; (iii) any Service Awards approved by the Court; and (iv) any Attorneys’ Fees and Expenses Award approved by the Court.
- r. “**Notice Date**” means the date, within sixty (60) Days of the entry of the Preliminary Approval Order, when the Settlement Administrator shall email and mail by First-Class United States mail the Postcard Notice to all Settlement Class Members for whom Defendant has valid addresses.
- s. “**Notice Program**” means the notice program described in Section VII.
- t. “**Objection Deadline**” shall have the meaning set forth in Paragraph 57 or as otherwise ordered by the Court.
- u. “**Opt-Out**” means a Settlement Class Member (i) who timely submits a properly completed and executed Request for Exclusion, (ii) who does not rescind that Request for Exclusion before the end of the Opt-Out Period, and (iii) as to which there is not a successful challenge to the Request for Exclusion.
- v. “**Opt-Out Date**” means the date by which Settlement Class Members must mail their Request for Exclusion in order to be excluded from the Settlement Class. The postmark date shall constitute evidence of the date of mailing for these purposes. The Opt-Out Date shall be sixty (60) Days after the Notice Date.
- w. “**Opt-Out Period**” means the period commencing on the date of entry of the Preliminary Approval Order and ending on the Opt-Out Date, during which Settlement Class Members may submit a timely Request for Exclusion.
- x. “**Person**” means an individual, corporation, partnership, limited partnership, limited liability company or partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity, and their respective spouses, heirs, predecessors, successors, representatives, or assignees.
- y. “**Pixel Disclosure**” means the alleged disclosure of personal and/or health-related information of Plaintiffs and Settlement Class Members to any third

party, including but not limited to Meta (formerly known as Facebook) as a result of any use of Tracking Tools on Defendant's websites and MyChart portal between May 1, 2020 and August 12, 2022.

- z. **"Postcard Notice"** or **"Short-Form Notice"** means the written notice to be sent to Settlement Class Members pursuant to the Preliminary Approval Order substantially in the form attached as **Exhibit C** to this Settlement Agreement.
- aa. **"Preliminary Approval Date"** means the date the Preliminary Approval Order has been executed and entered by the Court.
- bb. **"Preliminary Approval Order"** means the order certifying the proposed Settlement Class for settlement purposes, preliminarily approving this Settlement Agreement, approving the Notice Program, and setting a date for the Final Approval Hearing, entered in a format the same as or substantially similar to that of the Proposed Preliminary Approval Order attached hereto as **Exhibit D**.
- cc. **"Related Parties"** means Defendant's past or present parents, subsidiaries, divisions, and related or affiliated entities of any nature whatsoever, whether direct or indirect, as well as each of Defendant's and these entities' respective predecessors, successors, assigns, shareholders, members, trustees, directors, officers, employees, principals, agents, attorneys, representatives, providers, advisors, consultants, contractors, vendors, partners, insurers, reinsurers, and subrogees, and includes, without limitation, any Person related to any such entity who could have been named as a defendant in this Litigation.
- dd. **"Released Claims"** means all claims and other matters released in and by Section XV of this Settlement Agreement. Released Claims do not include the right of any Settlement Class Member or any of the Released Persons to enforce the terms of the Settlement contained in this Agreement.
- ee. **"Released Persons"** means Defendant and the Related Parties.
- ff. **"Releasing Persons"** means Plaintiffs and the Settlement Class Members, and each of their heirs, estates, trustees, principals, beneficiaries, guardians, executors, administrators, representatives, agents, attorneys, partners, successors, predecessors-in-interest, and assigns and/or anyone claiming through them or acting or purporting to act for them or on their behalf.
- gg. **"Residual Funds"** means any funds that remain in the Settlement Fund after all deductions from the Settlement Fund and after all settlement payments to Settlement Class Members. Often in class action settlements, some number of class members who submit valid claims and are then issued Settlement Payments fail to cash or deposit their settlement payments. The funds remaining in the Settlement Fund after Settlement Payments have been distributed and the time for cashing and/or depositing such payments has expired will be Residual Funds. The Residual Funds will be sent to a 501(c)(3) charitable organization

to be agreed upon by the Parties and approved by the Court.

- hh. **“Request for Exclusion”** means a fully completed and properly executed written request that is timely submitted to the Settlement Administrator by a Settlement Class Member under Section IX of this Agreement and is postmarked on or before the end of the Opt-Out Period. For a Request for Exclusion to be properly completed and executed, it must: (a) identify the case name and number of the Litigation; (b) state the Settlement Class Member’s full name, address and telephone number; (c) contain the Settlement Class Member’s personal and original signature; (d) state unequivocally the Settlement Class Member’s intent to be excluded from the Settlement; and (e) request exclusion only for that one Settlement Class Member whose personal and original signature appears on the request. All Requests for Exclusion must be submitted individually in connection with a Settlement Class Member, i.e., one request is required for every Settlement Class Member seeking exclusion.
- ii. **“Settlement”** means the settlement reflected by this Settlement Agreement.
- jj. **“Settlement Administrator”** means the Court-appointed class action settlement administrator retained to carry out the notice plan, issue any required notice under the Class Action Fairness Act, administer the Settlement Fund distribution process, and perform other actions as specified in this Settlement Agreement, as agreed to by the Parties, or as ordered by the Court. The Parties, subject to Court approval, have agreed that Class Counsel will engage Postlethwaite & Netterville (“P&N”) as Settlement Administrator in this matter.
- kk. **“Settlement Agreement”** means this Settlement Agreement, including all exhibits hereto.
- ll. **“Settlement Class”** means all individuals residing in the United States who Defendant identified as potentially having their personal or health-related information disclosed to a third party because of Defendant’s use of Tracking Tools on Defendant’s websites or MyChart patient portal between May 1, 2020 and August 12, 2022. Excluded from the Class are: (i) Defendant, any entity in which Defendant has a controlling interest, and Defendant’s affiliates, parents, subsidiaries, officers, directors, legal representatives, successors, subsidiaries, and assigns; (ii) any judge, justice, or judicial officer presiding over the Litigation and the members of their immediate families and judicial staff; and (iii) any individual who timely and validly excludes themselves from the Settlement. The Settlement Class consists of approximately 1,362,165 individuals.
- mm. **“Settlement Class Representatives”** means Plaintiffs who filed the Complaint in the Litigation: Keith David Allen, Karyn Cook, Daymond Cox, Kevin Curry, Meghan Curry, Dr. Richard Nero, David Novack, Cheryl Taylor, Fernando Valencia, and Natalie Wells-Reyes.

- nn. “**Settlement Fund**” means the non-reversionary sum of six million six hundred and sixty thousand dollars and zero cents (\$6,660,000.00), to be paid by Defendant as specified in this Agreement, which shall be used as the only source of payment for all costs of the Settlement.
- oo. “**Settlement Class Members**” means all Persons who are members of the Settlement Class.
- pp. “**Settlement Website**” means a dedicated website created and maintained by the Settlement Administrator, which will contain relevant documents and information about the Settlement, including this Settlement Agreement, the Postcard Notice, and the Long-Form Notice, among other things, as agreed upon by the Parties and approved by the Court.
- qq. “**Tracking Tools**” means any third-party pixels, and any similar web analytics technologies, that allow website owners to track visitor activity on their websites, including but not limited to the Meta Pixel.

III. Certification of the Settlement Class

15. For settlement purposes only and within the context of the Settlement Agreement only, Plaintiffs will request that the Court certify the Settlement Class.

16. The Plaintiffs identified in the Complaint will move to be appointed Settlement Class Representatives for settlement purposes only and Class Counsel will move to be appointed as counsel to the Settlement Class for settlement purposes only.

17. If this Settlement Agreement is terminated or disapproved, or if the Effective Date should not occur for any reason, then Plaintiffs’ request for certification of the Settlement Class will be withdrawn and deemed to be of no force or effect for any purpose in this or any other proceeding. In that event, Defendant reserves the right to assert any and all objections and defenses to certification of a class, and neither the Settlement Agreement nor any order or other action relating to the Settlement Agreement shall be offered by any Person in any litigation or other proceeding against Defendant or any Related Party as evidence in support of a motion to certify any class.

IV. Settlement Consideration

18. Defendant agrees to make a payment of six million six hundred and sixty thousand dollars and zero cents (\$6,660,000.00) and deposit that payment into the Settlement Fund within thirty (30) Days after the Court enters a Preliminary Approval Order. For the avoidance of doubt, and for purposes of this Settlement Agreement only, Defendant's liability under this Agreement shall not exceed six million six hundred and sixty thousand dollars and zero cents (\$6,660,000.00), inclusive of Class Counsel's Attorneys' Fees and Litigation Expenses, all Notice and Settlement Administration Costs, any taxes applicable to the Settlement Fund, and any Service Awards. The timing set forth in this provision is contingent upon Defendant's receipt of a Form W-9 from the Settlement Administrator for the Settlement Fund by the date that the Preliminary Approval Order is issued. If Defendant does not receive this information by the date that the Preliminary Approval Order is issued, the payments specified by this paragraph shall be made within thirty (30) Days after Defendant receives this information.

19. The Settlement Fund shall be deposited in an appropriate qualified settlement fund established by the Settlement Administrator but shall remain subject to the jurisdiction of the Court until such time as the entirety of the Settlement Fund is distributed pursuant to this Agreement or returned to those who paid the Settlement Fund in the event this Agreement is voided, terminated, or cancelled.

20. In the event this Agreement is voided, terminated, or cancelled due to lack of approval from the Court or any other reason: (i) the Settlement Class Representatives and Class Counsel shall have no obligation to repay any of the Notice and Settlement Administration Costs that have been paid or incurred in accordance with the terms and conditions of this Agreement; (ii) any amounts remaining in the Settlement Fund (after payment of Notice and Settlement

Administration Costs already paid or incurred in accordance with the terms and conditions of this Agreement), including all interest earned on the Settlement Fund net of any taxes, shall be returned to Defendant; and (iii) no other person or entity shall have any further claim whatsoever to such amounts.

21. This Settlement is non-reversionary. As of the Effective Date, all rights of Defendant in or to the Settlement Fund shall be extinguished, except in the event this Settlement Agreement is voided, cancelled, or terminated, as described in Section XIV of this Agreement. In the event the Effective Date occurs, no portion of the Settlement Fund shall be returned to Defendant.

22. As further described in this Agreement, the Settlement Fund shall be used by the Settlement Administrator to pay for: (i) reasonable Notice and Settlement Administration Costs incurred pursuant to this Settlement Agreement as approved by Class Counsel and approved by the Court; (ii) any taxes owed by the Settlement Fund; (iii) any Service Awards approved by the Court; (iv) any Attorneys' Fees and Expenses Award as approved by the Court; and (v) any *cy pres* payment to an agreed upon charitable organization unaffiliated with the Parties. The Settlement Administrator will maintain control over the Settlement Fund and shall be responsible for all disbursements, including payment of any applicable taxes.

23. No amounts may be withdrawn from the Settlement Fund unless (i) expressly authorized by the Settlement Agreement, or as may be (ii) approved by the Court. Class Counsel may authorize the periodic payment of actual reasonable Notice and Settlement Administration Costs from the Settlement Fund as such expenses are invoiced without further order of the Court. The Settlement Administrator shall provide Class Counsel and Defendant with notice of any withdrawal or other payment the Settlement Administrator proposes to make from the Settlement

Fund before the Effective Date at least seven (7) business days prior to making such withdrawal or payment.

24. The Settlement Administrator, subject to such supervision and direction of the Court and Class Counsel as may be necessary or as circumstances may require, shall administer and oversee any *cy pres* distribution of the Settlement Fund to an agreed upon charitable organization unaffiliated with the Parties pursuant to this Agreement.

25. The Parties agree that the Settlement Fund is intended to be maintained as a qualified settlement fund within the meaning of Treasury Regulation § 1.468 B-1, and that the Settlement Administrator, within the meaning of Treasury Regulation § 1.468 B-2(k)(3), shall be responsible for filing tax returns and any other tax reporting for or in respect of the Settlement Fund and paying from the Settlement Fund any taxes owed by the Settlement Fund. The Parties agree that the Settlement Fund shall be treated as a qualified settlement fund from the earliest date possible and agree to any relation-back election required to treat the Settlement Fund as a qualified settlement fund from the earliest date possible. Any and all funds held in the Settlement Fund shall be held in an interest-bearing account insured by the Federal Deposit Insurance Corporation (“FDIC”) at a financial institution determined by the Settlement Administrator and approved by the Parties. Funds may be placed in a non-interest-bearing account as may be reasonably necessary during the check-clearing process. The Settlement Administrator shall provide an accounting of any and all funds in the Settlement Fund, including any interest accrued thereon and payments made pursuant to this Agreement, upon request of any of the Parties.

26. All taxes owed by the Settlement Fund shall be paid out of the Settlement Fund, shall be considered part of the Notice and Settlement Administration Costs, and shall be timely paid by the Settlement Administrator without prior order of the Court. Further, the Settlement Fund

shall indemnify and hold harmless the Parties and their counsel for any taxes relating to the Settlement (including, without limitation, taxes payable by reason of any such indemnification payments). The Parties and their respective counsel have made no representation or warranty with respect to the tax treatment by any Settlement Class Representative of any payment or transfer made pursuant to this Agreement or derived from or made pursuant to the Settlement Fund. Each Settlement Class Representative shall be solely responsible for the federal, state, and local tax consequences to them of the receipt of funds from the Settlement Fund pursuant to this Agreement. Under no circumstances will Defendant have any liability for taxes or tax expenses under the Settlement Agreement.

27. Limitation of Liability

- a. Defendant and its counsel shall not have any responsibility for or liability whatsoever with respect to (i) any act, omission, or determination of Class Counsel, the Settlement Administrator, or any of their respective designees or agents, in connection with the administration of the Settlement or otherwise; (ii) the management, investment, or distribution of the Settlement Fund; (iii) the formulation, design, or terms of the disbursement of the Settlement Fund; (iv) any losses suffered by, or fluctuations in the value of the Settlement Fund; or (v) the payment or withholding of any taxes, expenses, and/or costs incurred in connection with the taxation of the Settlement Fund or the filing of any returns. Defendant also shall have no obligation to communicate with Settlement Class Members and others regarding amounts paid under the Settlement.
- b. The Settlement Class Representatives and Class Counsel shall not have any liability whatsoever with respect to (i) any act, omission, or determination of the Settlement Administrator, or any of their respective designees or agents, in connection with the administration of the Settlement or otherwise; (ii) the management, investment, or distribution of the Settlement Fund; (iii) the formulation, design, or terms of the disbursement of the Settlement Fund; (iv) any losses suffered by or fluctuations in the value of the Settlement Fund; or (v) the payment or withholding of any taxes, expenses, and/or costs incurred in connection with the taxation of the Settlement Fund or the filing of any returns.

V. Benefits to Class Members

28. As set out in Paragraph 38, the Net Settlement Fund shall be distributed via *pro rata* cash payments to Settlement Class Members who submit a valid and timely Claim Form. Any

Residual Funds will then be allocated to the agreed-upon *cy pres* recipient.

VI. Settlement Administration

29. All agreed upon and reasonable Federal Rule of Civil Procedure 23 Notice and Settlement Administration Costs will be paid from the Settlement Fund.

30. Class Counsel represent that (i) they solicited competitive bids for settlement administration, including Notice and Settlement Administration Costs, (ii) they believe that Postcard Notice and/or email notice is appropriate under the circumstances, and (iii) they will direct the Settlement Administrator to utilize other appropriate forms of notice where practicable, in order to contain the administration costs while still providing effective notice to the Settlement Class Members.

31. The Settlement Administrator will provide written notice by United States First Class mail of the settlement terms to all Settlement Class Members for whom Defendant has provided a valid mailing address. The Settlement Administrator shall perform skip-tracing for any returned mail and shall re-mail notice to any Settlement Class Members whose addresses are uncovered by skip-tracing.

32. The Settlement Administrator will cause the Notice Program to be effectuated in accordance with the terms of the Settlement Agreement and any orders of the Court.

33. The Settlement Administrator will administer the settlement processes as set forth in this Agreement and as directed by Class Counsel, subject to the Court's supervision and direction as circumstances may require.

34. To make a claim, a Settlement Class Member must complete and submit a valid, timely, and sworn Claim Form. A Claim Form shall be submitted online at the Settlement Website or by U.S. mail, and must be submitted on the Settlement Website or postmarked (as the case may

be) no later than the Claim Deadline.

35. The Settlement Administrator will review and evaluate each Claim Form for validity, timeliness, and completeness.

36. If, in the determination of the Settlement Administrator, the Settlement Class Member submits a timely but incomplete Claim Form, the Settlement Administrator shall give the Settlement Class Member notice of the deficiencies, and the Settlement Class Member shall have twenty (20) Days from the date of the written notice to cure the deficiencies. The Settlement Administrator will provide notice of deficiencies concurrently to Defendant's Counsel and Class Counsel. If the defect is not cured within the 20-Day period, then the Claim will be deemed invalid. All Settlement Class Members who submit a valid and timely Claim Form, including a Claim Form deemed defective but timely cured, shall be considered "Claimants."

37. The Settlement Administrator will maintain records of all Claim Forms submitted until three hundred sixty (360) Days after entry of a Final Approval Order and Judgment. Claim Forms and supporting documentation may be provided to the Court upon request and to Class Counsel to the extent necessary to resolve claims determination issues pursuant to this Settlement Agreement. Class Counsel or the Settlement Administrator will provide other reports or information that the Court or Parties may request.

38. Subject to the terms and conditions of this Settlement Agreement, thirty (30) Days after the Effective Date, the Settlement Administrator shall mail or otherwise provide a payment via check or electronic means (a "Settlement Payment") to each Claimant for their *pro rata* share of the Net Settlement Fund, in accordance with the following distribution procedures:

- a. The Settlement Administrator shall utilize the Net Settlement Fund to make all Settlement Payments.
- b. The amount of each Settlement Payment shall be calculated by dividing the Net

Settlement Fund by the number of valid Claimants.

39. Each Settlement Payment shall be mailed to the address provided by the Claimant on their Claim Form. All Settlement Payments issued under this section shall be void if not negotiated within ninety (90) Days of their date of issue and shall contain a legend to that effect. Settlement Payments issued pursuant to this section that are not negotiated within ninety (90) Days of their date of issue shall not be reissued.

40. To the extent any monies remain in the Net Settlement Fund more than one hundred twenty (120) Days after the Settlement Administrator mails the last Settlement Payment, including any and all re-issued Settlement Payments, the *cy pres* distribution of the remaining Net Settlement Fund shall be made to the charitable organization agreed upon by the Parties and accepted by the Court.

41. For any Settlement Payments returned to the Settlement Administrator as undeliverable (including, but not limited to, when the intended recipient is no longer located at the address), the Settlement Administrator shall make reasonable efforts to find a valid address and resend the Settlement Payment within thirty (30) Days after the check is returned to the Settlement Administrator as undeliverable. The Settlement Administrator shall make only one attempt to resend a Settlement Payment.

VII. Notice to Class Members

42. The Parties agree the following Notice Program provides reasonable notice to the Settlement Class.

43. Direct notice shall be provided via U.S. mail and/or email to all Settlement Class Members for whom the Settlement Administrator has a valid address.

44. Within thirty (30) Days of the entry of the Preliminary Approval Order, Defendant shall provide the Settlement Administrator with the names and last mailing and email addresses

known to Defendant for the Settlement Class Members. The Settlement Administrator shall, by using the National Change of Address database maintained by the United States Postal Service (the “Postal Service”), obtain updates, if any, to the mailing addresses.

45. Within sixty (60) Days following entry of the Preliminary Approval Order (“Notice Date”), the Settlement Administrator shall email and/or mail the Postcard Notice to all Settlement Class Members for whom a valid address is available. The Settlement Administrator shall mail a Claim Form to Settlement Class Members upon written or telephonic request. The Claim Form will also be available on the Settlement Website.

46. On a rolling basis, the Settlement Administrator shall undertake reasonable efforts to confirm the address, and to resend notice, for any Settlement Class Members for whom the Settlement Administrator receives returned mail from the U.S. Postal Service indicating that the initial mailing was not delivered. Other than as set forth above, neither the Parties nor the Settlement Administrator shall have any other obligation to re-mail Postcard Notices.

47. The mailed notice will consist of the Postcard Notice substantially in the form of **Exhibit C**. The Settlement Administrator shall have discretion to format this Postcard Notice in a reasonable manner to minimize mailing and administrative costs. Before the mailing of the Postcard Notice is commenced, Class Counsel and Defendant’s Counsel shall first be provided with a proof copy (including what the items will look like in their final form) and shall have the right to inspect the same for compliance with the Settlement Agreement and the Court’s orders.

48. No later than forty-five (45) Days following entry of the Preliminary Approval Order, and prior to the mailing of the Postcard Notice to all Settlement Class Members, the Settlement Administrator will create a dedicated Settlement Website. The Settlement Administrator shall cause the Complaint, Long-Form Notice, Claim Form, this Settlement

Agreement, and other relevant settlement and court documents to be available on the Settlement Website. Any other content proposed to be included or displayed on the Settlement Website shall be approved in advance by counsel for the Parties. The website address and the fact that a more detailed Long-Form Notice are available through the website shall be included in the Postcard Notice. A toll-free number with interactive voice response, FAQs, and an option to speak to a live operator shall also be made available to address Settlement Class Members' inquiries.

49. The Settlement Website shall be maintained from the Notice Date until one hundred twenty (120) Days after the Effective Date.

50. The Notice Program shall be subject to approval by the Court as meeting the requirements of Rule 23(c) of the Federal Rules of Civil Procedure.

51. The Long Notice and Short-Form Notice approved by the Court may be adjusted by the Settlement Administrator, respectively, in consultation with and agreement by the Parties, as may be reasonable and necessary and not inconsistent with such approval.

52. Prior to the Final Approval Hearing, the Settlement Administrator shall provide to Class Counsel to file with the Court an appropriate affidavit or declaration from the Settlement Administrator concerning compliance with the Court-approved Notice Program.

53. The Notice Program shall commence within sixty (60) Days of entry of the Preliminary Approval Order and shall be completed within ninety (90) Days of the Preliminary Approval Order, except as otherwise specifically provided above.

VIII. Objections to the Settlement

54. Any Settlement Class Member who has not excluded themselves from the Settlement and who wishes to object to the proposed Settlement may file an Objection with the Court.

55. Each Objection must: (i) include the case name and number of the Litigation; (ii) set forth the Settlement Class Member's full name, current address, telephone number, and email address; (iii) contain the Settlement Class Member's personal and original signature; (iv) if the objecting Settlement Class Member is represented by an attorney, or received assistance from an attorney in drafting his or her objection, the name, address, telephone number, and email address of the attorney; (v) contain a statement indicating the basis for the objecting Settlement Class Member's belief that he or she is a member of the Settlement Class; (vi) state whether the objection applies only to the Settlement Class Member, to a specific subset of the Settlement Class, or to the entire Settlement Class; (vii) set forth a statement of the legal and/or factual basis for the Objection; and (viii) state whether the objecting Settlement Class Member intends to appear at the Final Approval Hearing, and if so, whether personally or through counsel.

56. In addition to the foregoing requirements, if an objecting Settlement Class Member is represented by counsel and such counsel intends to speak at the Final Approval Hearing, the written objection must also include: (i) the identity of witnesses whom the objecting Settlement Class Member intends to call to testify at the Final Approval Hearing; (ii) a description of any documents or evidence that the objecting Settlement Class Member intends to offer at the Final Approval Hearing; and (iii) a list, including case name, court, and docket number, of all other cases in which the objector and/or the objector's counsel has filed an Objection to any proposed class action settlement in the past three (3) years.

57. Objections must be filed with the Court no later than sixty (60) Days after the Notice Date (the "Objection Deadline"). The Objection Deadline shall be included in the Short-Form and Long-Form Notices and on the Settlement Website.

58. Class Counsel and Defendant's Counsel may, but need not, respond to the

Objections, if any, by means of a memorandum of law filed with the Court prior to the Final Approval Hearing.

59. An objecting Settlement Class Member has the right, but is not required, to attend the Final Approval Hearing.

60. Any Settlement Class Member who fails to timely file an Objection pursuant to the requirements set forth in this section, and otherwise as ordered by the Court, shall not be permitted to object to the approval of the Settlement at the Final Approval Hearing, shall be foreclosed from seeking any review of the Settlement or the terms of the Settlement Agreement by appeal or other means, and shall be bound by all the terms of the Settlement Agreement and by all proceedings, orders, and judgments in the Litigation. The exclusive means for any challenge to the Settlement Agreement shall be through the provisions of Section VIII.

IX. Opt-Out Procedures

61. Each Person wishing to opt out of the Settlement Class shall individually sign and timely mail written notice of such intent (“Request for Exclusion”) to the designated Post Office box established by the Settlement Administrator. The written notice must: (i) identify the case name and number of this Litigation; (ii) state the Settlement Class Member’s full name, address, and telephone number; (iii) contain the Settlement Class Member’s personal and original signature; (iv) state unequivocally the Settlement Class Member’s intent to be excluded from the Settlement Class; and (v) request exclusion only for that one Settlement Class Member whose personal and original signature appears on the request. To be effective, written notice must be postmarked no later than the Opt-Out Date.

62. All Requests for Exclusion must be submitted individually in connection with a Settlement Class Member, i.e., one request is required for every Settlement Class Member seeking

exclusion. Any Requests for Exclusion purporting to seek exclusion on behalf of more than one Settlement Class Member shall be deemed invalid by the Settlement Administrator.

63. Within seven (7) Days after the Opt-Out Date, the Settlement Administrator shall provide the Parties with a complete and final list of all Opt-Outs who have timely and validly excluded themselves from the Settlement Class and, upon request, copies of all Requests for Exclusion that were submitted to the Settlement Administrator. Class Counsel may present to the Court the number of Opt-Outs (if any), as well as a list of Opt-Outs that includes only first name, last initial, city, and state of each Opt-Out, no later than fourteen (14) Days before the Final Approval Hearing.

64. All Persons who submit valid and timely Requests for Exclusion, as set forth in Paragraph 61, referred to herein as “Opt-Outs,” shall not receive any benefits of or be bound by the terms of this Settlement Agreement. All Persons falling within the definition of the Settlement Class who do not validly and timely opt out of the Settlement Class in the manner set forth in Paragraph 61 shall be bound by the terms of this Settlement Agreement and judgment entered thereon, and all subsequent proceedings, orders, and judgments applicable to the Settlement Class.

X. Attorneys’ Fees, Expenses, and Service Awards

65. Class Counsel shall request the Court to approve an award of attorneys’ fees not to exceed thirty-three percent (33% or \$2,220,000.00) of the Settlement Fund plus reasonable Litigation Expenses not to exceed \$30,000.00. The Attorneys’ Fees and Expenses Award shall be paid no later than thirty (30) Days after the Effective Date. For the avoidance of doubt, the Attorneys’ Fees and Expenses Award shall be paid by the Settlement Administrator from the Settlement Fund. Defendant shall take no position with regard to Class Counsel’s application for the Attorneys’ Fees and Expenses Award if the application complies with the provisions of this

section.

66. Class Counsel shall request the Court to approve a service award of two thousand five hundred dollars (\$2,500.00) for each of the named Plaintiffs, which award is intended to recognize Plaintiffs for their efforts in the Litigation and commitment on behalf of the Settlement Class (“Service Award”). If approved by the Court, these Service Awards will be paid to Class Counsel for distribution no later than thirty (30) Days after the Effective Date. For the avoidance of doubt, the Court-approved amount for any Service Awards shall be paid from the Settlement Fund. Defendant shall take no position with regard to the request for a service award payment to the Plaintiffs if the request complies with the provisions of this section.

67. Class Counsel will file applications with the Court for the requested Service Awards and Attorneys’ Fees and Expenses Award no later than fifteen (15) Days prior to the Objection Deadline.

68. The Parties agree that the Court’s approval or denial of any request for the Service Awards or Attorneys’ Fees and Expenses Award are not conditions to this Settlement Agreement and are to be considered by the Court separately from the final approval, reasonableness, and adequacy of the Settlement. If the Court declines to approve, in whole or in part, any request for Service Awards or for an Attorneys’ Fees and Expenses Award, all remaining provisions in this Agreement shall remain in full force and effect. No decision by the Court, or modification or reversal or appeal of any decision by the Court, concerning the payment of Services Awards or an Attorneys’ Fees and Expenses Award, or the amounts thereof, shall be grounds to terminate or cancel this Settlement Agreement.

XI. Notices

69. All notices, instructions, and applications for Court action in connection with this

Agreement shall be made in writing and communicated as follows:

All notices to Class Counsel or Plaintiffs shall be sent to:

Gary M. Klinger
MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN, PLLC
227 W. Monroe Street, Suite 2100
Chicago, IL 60606
(866) 252-0878
gklinger@milberg.com

All notices to Defendant's Counsel or Defendant shall be sent to:

David L. Balsler
KING & SPADLING, LLP
1180 Peachtree St. NE, Suite 1600
Atlanta, GA 30309
(404) 572-4600
dbalsler@kslaw.com

70. Other than attorney-client communications or communications otherwise protected from disclosure pursuant to law or rule, the Parties shall promptly provide to each other copies of comments, Objections, or other documents or filings received from a Settlement Class Member as a result of the Notice Program.

XII. Settlement Approval Process

71. After execution of this Settlement Agreement, Class Counsel shall submit this Settlement Agreement to the Court and file a motion for preliminary approval of the Settlement with the Court requesting entry of a Preliminary Approval Order in the form attached hereto as **Exhibit D**, or an order substantially similar to such form, which:

- a. Preliminarily certifies the Settlement Class for settlement purposes only;
- b. Preliminarily approves this Agreement for purposes of issuing notice;
- c. Finds the proposed Settlement is sufficiently fair, reasonable, adequate, and in the best interests of the Settlement Class;
- d. Finds: (i) the Notice Program constitutes valid, due, and sufficient notice to the Settlement Class Members and constitutes the best notice practicable under

the circumstances, complying fully with the requirements of the laws of North Carolina, the Constitution of the United States, and any other applicable law; and (ii) that no further notice to the Settlement Class is required beyond that provided through the Notice Program;

- e. Appoints Plaintiffs as the Settlement Class Representatives for settlement purposes only;
- f. Appoints Class Counsel as counsel to the Settlement Class for settlement purposes only;
- g. Appoints the Settlement Administrator and directs the Settlement Administrator to provide notice to Settlement Class Members in accordance with the Notice Program provided for in this Settlement Agreement;
- h. Approves the Settlement Administrator to administer the Settlement in accordance with the provisions of this Settlement Agreement;
- i. Approves the Opt-Out and Objection procedures as outlined in this Settlement Agreement;
- j. Schedules an appropriate Opt-Out Date, Objection Deadline, and other Settlement-related dates and deadlines to be included in the Class Notice;
- k. Schedules a Final Approval Hearing to consider whether the proposed Settlement should be finally approved by the Court;
- l. Stays all proceedings in the Litigation other than those related to approval of the Settlement; and
- m. Contains any additional provisions agreeable to the Parties that might be necessary or advisable to implement the terms of this Settlement Agreement.

72. Defendant will not oppose entry of the Preliminary Approval Order so long as it is substantially in the form attached to this Agreement as **Exhibit D** and is otherwise consistent with this Agreement.

XIII. Final Approval Hearing

73. The Parties will recommend that the Final Approval Hearing shall be scheduled no earlier than one hundred sixty (160) Days after the entry of the Preliminary Approval Order.

74. The Parties may file a response to any Objections and a Motion for Final Approval no later than fourteen (14) Days before the Final Approval Hearing.

75. Class Counsel shall ask the Court to enter a Final Approval Order and Judgment which:

- a. Finds that the Notice Program fully and accurately informed all Settlement Class Members entitled to notice of the material elements of the Settlement; constitutes the best notice practicable under the circumstances; constitutes valid, due, and sufficient notice; and complies fully with the laws of North Carolina, the United States Constitution, and any other applicable law;
- b. Finds that after proper notice to the Settlement Class, and after sufficient opportunity to object, no timely Objections to this Settlement Agreement have been made or all timely Objections have been considered and denied;
- c. Approves of the Settlement, as set forth in this Settlement Agreement, as fair, reasonable, adequate, and in the best interests of the Settlement Class, in all respects, finding that the Settlement is in good faith, and ordering the Parties and Settlement Administrator to perform the Settlement in accordance with the terms of this Settlement Agreement;
- d. Finds that neither the Final Approval Order and Judgment, the Settlement, nor the Settlement Agreement shall constitute an admission of liability or wrongdoing by any of the Parties;
- e. Subject to the reservation of jurisdiction for matters discussed in subparagraph (g) below, dismisses the Litigation with prejudice;
- f. Finds that Plaintiffs and all Settlement Class Members shall, as of the entry of the Final Approval Order and Judgment, conclusively be deemed to have fully, finally, and forever completely released, relinquished, and discharged the Released Persons from the Released Claims; and
- g. Reserves exclusive and continuing jurisdiction over the Litigation and the Parties for the purposes of, among other things: (i) supervising the implementation, enforcement, construction, and interpretation of the Settlement Agreement and the Final Approval Order and Judgment; and (ii) supervising the administration and distribution of the Settlement Fund and resolving any disputes that may arise with regard to the foregoing. The Court's exclusive and continuing jurisdiction over the Litigation and Parties shall include, without limitation, the Court's power to enforce the bar against Settlement Class Members' prosecution of Released Claims against Released Persons pursuant to the All Writs Act, 28 U.S.C. § 1651, or any other applicable law.

76. If and when the Settlement becomes Final, the Litigation shall be dismissed with prejudice, with the Parties to bear their own attorneys' fees, costs, and expenses not otherwise

awarded in accordance with this Settlement Agreement.

XIV. Termination of this Settlement Agreement

77. Each Party shall have the right to terminate this Settlement Agreement if:

- a. The Court denies preliminary approval of this Settlement Agreement (or grants preliminary approval through an order that materially differs in substance to **Exhibit D** hereto), and the Parties are unable to modify the Settlement in a manner to obtain and maintain preliminary approval;
- b. The Court denies final approval of this Settlement Agreement;
- c. The Final Approval Order and Judgment does not become Final by reason of a higher court reversing final approval by the Court, and the Court thereafter declines to enter a further order or orders approving the Settlement on the terms set forth herein; or
- d. The Effective Date does not occur for any reason, including but not limited to the entry of an order by any court that would require either material modification or termination of the Agreement.

78. In addition to the grounds set forth above, Defendant shall have the sole option to withdraw from and terminate this Settlement in its entirety in the event that 1% or more of Settlement Class Members submit timely and valid Requests for Exclusion by the Opt-Out Date.

79. If a Party elects to terminate this Settlement Agreement under this Section XIV, that Party must provide written notice to the other Party's counsel by hand delivery, mail, or email within ten (10) Days of the occurrence of the condition permitting termination.

80. Nothing shall prevent Plaintiffs or Defendant from appealing or seeking other appropriate relief from an appellate court with respect to any denial by the Court of final approval of the Settlement.

81. If this Settlement Agreement is terminated or disapproved, or if the Effective Date should not occur for any reason, then: (i) this Settlement Agreement, any Preliminary Approval Order, and all of their provisions shall be rendered null and void; (ii) all Parties shall be deemed to have reverted to their respective statuses in the Litigation as of the date and time immediately

preceding the execution of this Settlement Agreement; (iii) except as otherwise expressly provided, the Parties shall stand in the same position and shall proceed in all respects as if this Settlement Agreement and any related orders had never been executed, entered into, or filed; and (iv) no term or draft of this Settlement Agreement nor any part of the Parties' settlement discussions, negotiations, or documentation (including any declaration or brief filed in support of the motion for preliminary approval or motion for final approval), nor any rulings regarding class certification for settlement purposes (including any Preliminary Approval Order), will have any effect or be admissible into evidence for any purpose in the Litigation or any other proceeding.

82. If the Court does not approve the Settlement or the Effective Date does not occur for any reason, Defendant shall retain all its rights and defenses in the Litigation. Nothing in this Settlement Agreement or other papers or proceedings related to the Settlement shall be used as evidence or argument by any Party concerning whether the Litigation may properly be maintained as a class action, or for any other purpose.

XV. Release

83. On the Effective Date and in consideration of the promises and covenants set forth in this Settlement Agreement, the Releasing Persons, including Plaintiffs and each Settlement Class Member, will be deemed to have fully, finally, and forever completely released, relinquished, and discharged the Released Persons from any and all past, present, and future claims, counterclaims, lawsuits, set-offs, costs, expenses, attorneys' fees and costs, losses, rights, demands, charges, complaints, actions, suits, causes of action, obligations, debts, contracts, penalties, damages, or liabilities of any nature whatsoever, known, unknown, or capable of being known, in law or equity, fixed or contingent, accrued or unaccrued, and matured or not matured that arise out of, or are based upon or connected to, or relate in any way to the Pixel Disclosure or

Defendant's use of Tracking Tools, the allegations in the Complaint, or that were or could have been asserted in the Litigation (the "Release"). The Release shall be included as part of any Final Approval Order and Judgment so that all claims released thereby shall be barred by principles of res judicata, collateral estoppel, and claim and issue preclusion. The Release shall constitute and may be pled as a complete defense to any proceeding arising from, relating to, or filed in connection with the Released Claims. In the event any Settlement Class Member attempts to prosecute an action in contravention of a Final Approval Order and Judgment or the Settlement Agreement, counsel for any of the Parties may forward the Settlement Agreement and the Final Approval Order and Judgment to such Settlement Class Member and advise such Settlement Class Member of the Release provided pursuant to the Settlement Agreement. If so requested by Defendant or counsel for Defendant, Class Counsel shall provide this notice.

84. Subject to Court approval, as of the Effective Date, Plaintiffs and all Settlement Class Members who do not timely and validly opt-out of the Settlement shall be bound by this Settlement Agreement and the Release, and all of the Released Claims shall be dismissed with prejudice and released.

85. The Released Claims include the release of Unknown Claims. "Unknown Claims" means claims relating in any way to the subject matter of the Complaint that could have been raised in the Litigation and that any of the Plaintiffs and each of their respective heirs, executors, administrators, representatives, agents, partners, trustees, successors, attorneys, and assigns do not know to exist or suspect to exist, which, if known by them, might affect their agreement to release Defendant and all other Released Persons, or might affect their decision to agree to, or object or not to object to the Settlement. With respect to any and all Released Claims, the Parties stipulate and agree that upon the Effective Date, Plaintiffs (on behalf of themselves and each Settlement

Class Member) expressly shall have, and by operation of the Final Approval Order and Judgment the Settlement Class Members shall have, released any and all Released Claims, including Unknown Claims. Plaintiffs (on behalf of themselves and each Settlement Class Member) may hereafter discover facts in addition to, or different from, those that they now know or believe to be true with respect to the subject matter of the Released Claims, but Plaintiffs (on behalf of themselves and each Settlement Class Member) expressly shall have, and by operation of the Final Approval Order and Judgment shall have, upon the Effective Date, fully, finally, and forever settled and released any and all Released Claims, including Unknown Claims.

86. For the avoidance of doubt, no claims for medical negligence involving personal injury are included in the Released Claims.

87. On entry of the Final Approval Order and Judgment, the Plaintiffs and Settlement Class Members shall be enjoined from prosecuting the Released Claims in any proceeding in any forum against any of the Released Persons, or based on any actions taken by any Released Persons authorized or required by this Settlement Agreement or the Court or an appellate court as part of this Settlement.

88. The Parties agree that the Released Persons will suffer irreparable harm if any Settlement Class Member asserts any Released Claims against any Released Persons, and that in that event, the Released Persons may seek an injunction as to such action without further showing of irreparable harm in this or any other forum.

89. Without in any way limiting the scope of the Release, the Release covers any and all claims for attorneys' fees, costs or disbursements incurred by Class Counsel or any other counsel representing Plaintiffs or Settlement Class Members, or any of them, in connection with or related in any manner to the Litigation (except for the Attorneys' Fees and Expenses Award to

be paid to Class Counsel as specifically provided in Section X and elsewhere in this Agreement), the Pixel Disclosure, Defendant's use of Tracking Tools as alleged in the Litigation, the Settlement, the administration of such Settlement and/or the Released Claims as well as any and all claims for the Service Awards to Plaintiffs.

90. Nothing in the Release shall preclude any action to enforce the terms of this Settlement Agreement, including participation in any of the processes detailed herein.

XVI. Effective Date

91. The "Effective Date" of this Settlement Agreement shall be the first Day after the date when all of the following conditions have occurred:

- a. This Settlement Agreement has been fully executed by all Parties and their counsel;
- b. Orders have been entered by the Court certifying the Settlement Class, granting preliminary approval of this Settlement Agreement and approving the Notice Program and Claim Form, all as provided above;
- c. The Court-approved Postcard Notice has been mailed, other notice required by the Notice Program has been effectuated, and the Settlement Website has been duly created and maintained as ordered by the Court;
- d. The Court has entered a Final Approval Order and Judgment finally approving this Settlement Agreement, as provided above; and
- e. The Final Approval Order and Judgment have become Final, as defined in Paragraph 14.

XVII. Miscellaneous Provisions

92. The recitals and exhibits to this Settlement Agreement are integral parts of the Settlement and are expressly incorporated and made a part of this Settlement Agreement.

93. This Settlement Agreement is for settlement purposes only. Neither the fact of nor any provision contained in this Settlement Agreement nor any action taken hereunder shall constitute or be construed as an admission of the validity of any claim or any fact alleged in the

Complaint or Litigation or of any wrongdoing, fault, violation of law or liability of any kind on the part of Defendant or any admission by Defendant of any claim in this Litigation or allegation made in any other proceeding, including regulatory matters, directly or indirectly involving the Pixel Disclosure, Defendant's use of any Tracking Tools, or allegations asserted in the Complaint and Litigation. This Settlement Agreement shall not be offered or be admissible in evidence against the Parties or cited or referred to in any action or proceeding between the Parties, except in an action or proceeding brought to enforce its terms. Nothing contained herein is or shall be construed or admissible as an admission by Defendant that Plaintiffs' claims, or any similar claims, are suitable for class treatment.

94. In the event that there are any developments in the effectuation and administration of this Settlement Agreement that are not dealt with by the terms of this Settlement Agreement, then such matters shall be dealt with as agreed upon by the Parties, and failing agreement, as shall be ordered by the Court. The Parties and their counsel agree to reasonably undertake their best efforts and mutually cooperate to effectuate this Agreement and the terms of the proposed Settlement set forth herein, including taking all steps and efforts contemplated by this Agreement, and any other reasonable steps and efforts which may become necessary by order of the Court or otherwise. The Parties further agree to reasonably cooperate in the defense of this Agreement against objections made to the Settlement or a Final Approval Order and Judgment at the Final Approval Hearing or in any appeal of a Final Approval Order and Judgment or in any collateral attack on this Agreement or a Final Approval Order and Judgment; provided, however, that Defendant shall have sole discretion in deciding whether Defendant will make any filing in respect of any objection, appeal, or collateral attack regarding the Settlement.

95. No person shall have any claim against Plaintiffs, Class Counsel, Defendant,

Defendant's Counsel, the Settlement Administrator, or the Released Persons, or any of the foregoing's agents or representatives based on the administration of the Settlement substantially in accordance with the terms of the Settlement Agreement or any order of the Court or appellate court.

96. This Settlement Agreement constitutes the entire Settlement Agreement between and among the Parties with respect to the Settlement of the Litigation. This Settlement Agreement supersedes all prior negotiations and agreements regarding settlement and may not be modified or amended except by a writing signed by the Parties and their respective counsel. The Parties acknowledge, stipulate, and agree that no covenant, obligation, condition, representation, warranty, inducement, negotiation, or understanding concerning any part of the subject matter of this Settlement Agreement has been made or relied on except as expressly set forth in this Settlement Agreement.

97. There shall be no waiver of any term or condition in this Settlement Agreement absent an express writing to that effect by the waiving Party. No waiver of any term or condition in this Settlement Agreement shall be construed as a waiver of a subsequent breach or failure of the same term or condition, or waiver of any other term or condition of this Settlement Agreement.

98. Defendant shall not be liable for any additional attorneys' fees and expenses of any Settlement Class Members' counsel, including any potential objectors or counsel representing a Settlement Class Member individually, other than what is expressly provided for in this Agreement. Class Counsel agree to hold Defendant harmless from any claim regarding the division of any award of Attorneys' Fees and Expenses Award, and any claim that the term "Class Counsel" fails to include any counsel, Person, or firm who claims that they are entitled to a share of any Attorneys' Fees and Expenses Award in this Litigation.

99. This Settlement Agreement shall not be construed more strictly against one Party than another merely because it may have been prepared by counsel for one of the Parties, it being recognized that because of the arm's-length negotiations resulting in this Settlement Agreement, all Parties hereto have contributed substantially and materially to the preparation of the Settlement Agreement. All terms, conditions, and exhibits are material and necessary to this Settlement Agreement and have been relied upon by the Parties in entering into this Settlement Agreement.

100. The Agreement may be amended or modified only by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest. Amendments and modifications may be made without additional notice to the Settlement Class Members unless such notice is required by the Court.

101. This Settlement Agreement shall be construed under and governed by the laws of the State of North Carolina without regard to its choice of law provisions.

102. The Parties and each Settlement Class Member irrevocably submit to the exclusive jurisdiction of the Court for any suit, action, proceeding, or dispute arising out of or relating to this Agreement or the applicability of the Agreement and its exhibits, but for no other purpose.

103. All agreements made and orders entered during the course of the Litigation relating to the confidentiality of information shall survive this Agreement, including but not limited to those relating to all information exchanged for purposes of mediation or under the auspices of Federal Rule of Evidence 408.

104. If any press release is to be issued by a Party, including their respective counsel, concerning the Settlement, the language of such press release must be approved in advance and in writing by the other Party. Otherwise, the Parties, and the Parties' counsel, shall not issue any press releases or make any postings on social media about this Litigation or the Settlement.

105. In the event that one or more of the provisions contained in this Settlement Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the other provisions of the Settlement Agreement, which shall remain in full force and effect as though the invalid, illegal, or unenforceable provision(s) had never been a part of this Settlement Agreement, as long as the benefits of this Settlement Agreement to Defendant or the Settlement Class Members are not materially altered, positively or negatively, as a result of the invalid, illegal, or unenforceable provision(s).

106. This Settlement Agreement will be binding upon and inure to the benefit of the successors and assigns of the Parties, Released Persons, and Settlement Class Members.

107. The headings used in this Settlement Agreement are for the convenience of the reader only and shall not affect the meaning or interpretation of this Settlement Agreement. In construing this Settlement Agreement, the use of the singular includes the plural (and vice-versa) and the use of the masculine includes the feminine (and vice-versa).

108. This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed an original as against any Party who has signed it and all of which shall be deemed a single Settlement Agreement. Scanned signatures or signatures sent by email or facsimile shall be as effective as original signatures.


109. Each Party to this Settlement Agreement and the signatories thereto warrant that they are acting upon their independent judgment and the advice of their counsel and not in reliance upon any warranty or representation, express or implied, of any nature or kind by any other Party, other than the warranties and representations expressly made in this Settlement Agreement.

110. Each signatory below warrants that they have authority to execute this Settlement

Agreement and bind the Party on whose behalf they are executing the Settlement Agreement.

IN WITNESS WHEREOF, the Parties have hereby accepted and agreed to the Settlement Agreement.

Dated: October 12, 2023

DocuSigned by:

Jeff Lindsay
Executive Vice President and Chief
Operating Officer
Novant Health, Inc.

Respectfully Submitted,

/s/ Gary M. Klinger
Gary M. Klinger*
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**admitted pro hac vice*

Counsel for Plaintiffs and the Settlement Class

SETTLEMENT TIMELINE

<u>From Order Granting Preliminary Approval</u>	
Defendant will provide the list of available addresses for Settlement Class Members to the Settlement Administrator	+30 Days
Defendant's payment of Settlement Fund to Settlement Administrator	+30 Days
Notice Date	+60 Days
Class Counsel's Motion for Attorneys' Fees, Expenses and Settlement Class Representative Service Award	+105 Days
Objection Deadline	+120 Days
Opt-Out Date	+120 Days
Claim Deadline	+150 Days
<u>Final Approval Hearing</u>	160 Days from Order Granting Preliminary Approval
Motion for Final Approval	14 Days before Final Approval Hearing
<u>From Effective Date</u>	
Payment of Attorneys' Fees and Litigation Expenses and Settlement Class Representative Service Awards	+30 Days
Mailing of Settlement Payments to Claimants	+30 Days
<i>Cy Pres</i> Distribution of the Residual Funds	+120 Days after the issuance of the last settlement payment to a Class Member
Deactivation of Settlement Website	+120 Days

EXHIBIT A

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<p>YOUR CLAIM FORM MUST BE SUBMITTED ON OR BEFORE <<DATE>></p>	<p>In re: Novant Health, Inc. [Address]</p>	<p>FOR OFFICE USE ONLY</p>
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In re: Novant Health, Inc.

U.S. District Court for the Middle District of North Carolina (Case No. 1:22-cv-00697)

CLAIM FORM

SAVE TIME BY SUBMITTING YOUR CLAIM ONLINE AT WWW.XXXXXXXXXXXXXXXXXX.COM

GENERAL CLAIM FORM INFORMATION

You may complete and submit this Claim Form online or by mail if you are a Settlement Class Member. The Settlement Class consists of all individuals who reside in the United States and who Novant Health, Inc. (“Novant Health”) identified as potentially having their personal or health-related information disclosed to a third party because of Novant Health’s use of certain Internet tracking technology on its websites and MyChart patient portal between May 1, 2020 and August 12, 2022 (the “Settlement Class”).

If you wish to submit a Claim for a settlement cash payment, please provide the information requested below. You must submit your Claim via the Settlement Website by the Claims Deadline of <<date>>, or complete and mail this Claim Form to the Settlement Administrator, postmarked by <<date>>.

Settlement Class Members who submit a timely and valid Claim Form will be eligible to receive a pro rata cash payment from the Net Settlement Fund. Each Settlement Class Member will receive, at most, one (1) payment.

The Notice includes only a summary of your legal rights and options. Please visit the official Settlement Website, www.xxxxxxxxxxxx.com, or call (xxx) xxx-xxxx for more information.

TO SUBMIT A CLAIM FOR PAYMENT BY MAIL:

1. Complete all sections of this Claim Form.
2. Sign the Claim Form.
3. Submit the completed Claim Form to the Settlement Administrator so that it is postmarked by <<date>>.

This Claim Form should only be used if a Claim is being mailed and is not being filed online. You may go to www.xxxxxxxxxxxx.com to submit your Claim online, or you may submit this Claim Form by mail to the address at the top of this form.

Payment will be mailed in the form of a check to the address you provide below. If you would like to receive a payment electronically (e.g., via Venmo, PayPal, or ACH), you must submit a Claim Form online at www.xxxxxxxxxxxx.com.

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Page 1 of 2
Page 1 of 2

1. Settlement Class Member Information

*First Name MI *Last Name

*Mailing Address: Street Address/P.O. Box (include Apartment/Suite/Floor Number)

*City *State *Zip Code Zip4 (Optional)

@
*Current Email Address

() -
Current Phone Number (Optional)

*Settlement Claim ID: 00000

*Settlement Claim ID: Your Settlement Claim ID can be found on the Postcard Notice you received informing you about this Settlement. If you need additional help locating this ID, please contact the Settlement Administrator at (xxx) xxx-xxxx.

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2. **Certification**

I declare under penalty of perjury under the laws of the United States and the state where this Claim Form is signed that the information I have supplied in this Claim Form is true and correct to the best of my recollection, and that this form was executed on the date set forth below.

I understand that all information provided on this Claim Form is subject to verification and that I may be asked to provide supplemental information by the Settlement Administrator before my claim will be considered complete and valid.

Signature

____/____/_____
Date (mm/dd/yyyy)

Print Name

Please keep a copy of your completed Claim Form for your records.

Mail your completed Claim Form to the Settlement Administrator:

In re: Novant Health, Inc.
[Settlement Administrator Address]

or submit your Claim online at
www.xxxxxxxxxxxxx.com

It is your responsibility to notify the Settlement Administrator of any changes to your contact information after you submit your Claim. You can update your contact information on the Contact page at
www.xxxxxxxxxxxxx.com.

EXHIBIT B

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT
FOR PERSONS WHOSE PERSONAL OR HEALTH-RELATED INFORMATION MAY
HAVE BEEN DISCLOSED TO A THIRD PARTY BECAUSE OF NOVANT HEALTH,
INC.'S ("NOVANT HEALTH") USE OF CERTAIN INTERNET TRACKING
TECHNOLOGY ON ITS WEBSITES OR MYCHART PATIENT PORTAL BETWEEN
MAY 1, 2020 AND AUGUST 12, 2022.**

In re: Novant Health, Inc., No. 1:22-cv-00697 (M.D.N.C.)

A United States District Court authorized this Notice. This is not a solicitation from a lawyer.

**THIS IS A NOTICE OF A PROPOSED SETTLEMENT OF A CLASS ACTION LAWSUIT.
THIS IS NOT A NOTICE OF A LAWSUIT AGAINST YOU.**

YOUR LEGAL RIGHTS ARE AFFECTED EVEN IF YOU DO NOTHING.

PLEASE READ THIS NOTICE CAREFULLY.

**You May Be Entitled To Participate In A Class Action Settlement Because Your Personal
Information May Have Been Shared With A Third Party When You Visited Novant Health's
Websites Or MyChart Patient Portal Between May 1, 2020 And August 12, 2022.**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A CLAIM BY <<date>>	If you submit a Claim Form by <<DATE>>, you may receive a pro rata share of the Net Settlement Fund as compensation. You must timely submit a Claim Form either via U.S. mail or online to receive monetary compensation under this Settlement. IF YOU DO NOTHING , you will not receive Settlement benefits, but you will still be bound by the Settlement.
EXCLUDE YOURSELF FROM THE SETTLEMENT BY <<date>>	You will receive no benefits, but you will retain any legal claims you may have against Novant Health.
OBJECT BY <<date>>	File with the Court a written objection to the Settlement, at the address below, about why you do not like the Settlement. You must remain in the Settlement Class to object to the Settlement.
GO TO THE FINAL APPROVAL HEARING ON <<date>> At <<time>>	Ask to speak in Court about the fairness of the Settlement. You do not need to attend the hearing to object to the Settlement, or to receive monetary compensation under the Settlement.

1. What is this Notice?

This is a court-authorized Long-Form Notice of a proposed Settlement (the “Settlement”) of a class action lawsuit (the “Litigation”), *In re: Novant Health, Inc.*, Case No. 1:22-cv-00697, pending in the U.S. District for the Middle District of North Carolina (the “Court”). The Settlement would resolve the Litigation that arose after a notification provided by Novant Health, Inc. (“Novant Health” or “Defendant”) dated on or about August 12, 2022, indicating that because it had used certain Internet tracking technology supplied by a third party, including a piece of code known as a “pixel” (referred to herein as “Tracking Tools”), on its websites and MyChart patient portal, certain personal or health-related information may have been disclosed to a vendor. The Court has granted Preliminary Approval of the Settlement Agreement and has conditionally certified the Settlement Class for purposes of Settlement only. This Long-Form Notice explains the nature of the Litigation, the terms of the Settlement Agreement, and the legal rights and obligations of members of the Settlement Class. Please read the instructions and explanations below carefully so that you can better understand your legal rights. The Settlement Administrator in this case is Postlethwaite & Netterville.

2. Why did I get this Notice?

You may have received a notice because you were identified as a person whose personal or health-related information may have been shared with a third party because of Novant Health’s use of certain Tracking Tools on its websites or MyChart patient portal between May 1, 2020 and August 12, 2022.

3. What is this lawsuit about?

The Litigation arises out of Novant Health’s implementation and use of Tracking Tools on its websites and MyChart patient portal, which Plaintiffs allege caused their web usage data—containing personal and health-related information—to be shared with a third party, allegedly resulting in the invasion of Plaintiffs’ and Settlement Class Members’ privacy (referred to herein as the “Pixel Disclosure”). Plaintiffs allege that the “Pixel Disclosure” occurred between May 1, 2020 and August 12, 2022.

4. Why is this a class action?

A class action is a lawsuit in which an individual called a “Class Representative” brings a single lawsuit on behalf of other people who have similar claims. In a class action settlement, all of these people together are a “Settlement Class” or “Settlement Class Members.” When a class action is settled, the Settlement, which must be approved by the Court, resolves the claims for all Settlement Class Members, except for those who exclude themselves from the Settlement.

QUESTIONS? VISIT WWW.XXXXXXXXXXXXXX.COM

5. Why is there a settlement?

To resolve this matter without the expense, delay, and uncertainties of protracted litigation, the Parties reached a Settlement that, if approved by the Court, would resolve all claims brought on behalf of the Settlement Class related to the Pixel Disclosure. If approved by the Court, the Settlement Agreement requires Novant Health to provide cash compensation to Settlement Class Members who submit valid and timely Claim Forms. The Settlement is not an admission of wrongdoing by Novant Health and does not imply that there has been, or would be, any finding that Novant Health violated the law. The Court overseeing the Litigation has not determined that Novant Health did anything wrong.

The Court already has preliminarily approved the Settlement Agreement. Nevertheless, because the settlement of a class action determines the rights of all members of the Settlement Class, the Court overseeing this Litigation must give final approval to the Settlement Agreement before it can be effective. The Court has conditionally certified the Settlement Class for settlement purposes only, so that members of the Settlement Class may be given notice and the opportunity to exclude themselves from the Settlement Class or to voice their support or opposition to final approval of the Settlement Agreement. If the Court does not grant final approval to the Settlement Agreement, or if it is terminated by the Parties, then the Settlement Agreement will be void, and the Litigation will proceed as if there had been no settlement and no certification of the Settlement Class.

6. How do I know if I am a part of the Settlement?

You are a member of the Settlement Class if you reside in the United States and you are among the individuals who Novant Health identified as potentially having their personal or health-related information disclosed to a third party because of Novant Health's use of Tracking Tools on its websites or MyChart patient portal between May 1, 2020 and August 12, 2022 ("Settlement Class").

Excluded from the Class are (i) Novant Health, any entity in which Novant Health has a controlling interest, and Novant Health's affiliates, parents, subsidiaries, officers, directors, legal representatives, successors, subsidiaries, and assigns; (ii) any judge, justice, or judicial officer presiding over the Litigation and the members of their immediate families and judicial staff; and (iii) any individual who timely and validly excludes themselves from the Settlement.

YOUR BENEFITS UNDER THE SETTLEMENT

7. What can I get from the Settlement?

Settlement Class Members who submit a valid and timely Claim Form may receive a pro rata cash payment from the Net Settlement Fund. The Net Settlement Fund is what remains of the \$6,660,000 Settlement Fund following the payment of Notice and Settlement Administration Costs, Class Representative Service Awards (\$2,500 per Class Representative), and Attorneys' Fees and Expenses

QUESTIONS? VISIT WWW.XXXXXXXXXXXXX.COM

Award (fees up to 33% of the Settlement Fund or \$2,220,000, plus expenses up to \$30,000.00), subject to the Court's approval.

*****To receive Settlement benefits, you must submit a Claim Form by _____*****

8. When will I receive the benefits?

If you timely submit a valid Claim Form for a cash payment, you will receive payment in the amount approved by the Settlement Administrator once the Settlement is Final and has become effective.

9. I want to be a part of the Settlement. What do I do?

All Settlement Class Members are part of the Settlement unless they request to be excluded from it. To submit a claim for cash compensation, you must timely submit the Claim Form on the Settlement Website at www.xxxxxxxxxx.com, or by mail to In re: Novant Health, Inc. [insert address]

You must submit any claims by <<date>>. There can be only one (1) valid and timely Claim per Settlement Class Member.

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

By staying in the Settlement Class, you will give Novant Health a "release," and all the Court's orders will apply to you and bind you. A release means you cannot sue or be part of any other lawsuit or other legal action against Novant Health about or arising from the claims or issues in this Litigation, Novant Health's use of Tracking Tools, or the alleged Pixel Disclosure.

The precise terms of the release are in the Settlement Agreement, which is available on the Settlement Website. Unless you formally exclude yourself from this Settlement, you will release your claims. If you have any questions, you can talk for free to Class Counsel identified below who have been appointed by the Court to represent the Settlement Class, or you are welcome to talk to any other lawyer of your choosing at your own expense.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want to remain in the Settlement, and instead want to keep any legal claims you may have against Novant Health, then you must take steps to exclude yourself from this Settlement.

11. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must send a letter by mail stating that you want to be excluded from *In re: Novant Health, Inc.*, Case No. 1:22-cv-00697 (M.D.N.C.) to the Settlement Administrator. Such notice must include: (1) the case name and number of the Litigation (*In re: Novant Health, Inc.*, Case No. 1:22-cv-00697); (2) your full name, address, and telephone number;

QUESTIONS? VISIT WWW.XXXXXXXXXXXXXX.COM

(3) your personal and original signature; and (4) a written statement that you wish to be excluded from the Settlement. You may only request exclusion for yourself, and no one else can request exclusion for you. You must mail your exclusion request so that it is postmarked **no later than** <<date>>, to:

In re: Novant Health, Inc.
[insert address]

12. If I exclude myself, do I still receive benefits from this Settlement?

No, if you submit an exclusion request, you will not receive anything from the Settlement, but you may sue Novant Health over the claims raised in the Litigation.

THE LAWYERS REPRESENTING THE SETTLEMENT CLASS

13. Do I have a lawyer in this case?

The Court has appointed the following attorneys to represent the Settlement Class as Class Counsel:

Class Counsel

Milberg Coleman Bryson Phillips Grossman, PLLC
c/o Gary M. Klinger and David K. Lietz
227 W. Monroe Street, Suite 2100
Chicago, IL 60606

Markovits, Stock & DeMarco, LLC
c/o Terence R. Coates
119 E. Court Street, Suite 530
Cincinnati, OH 45202

Chestnut Cambronne PA
c/o Bryan L. Bleichner
100 Washington Ave., Ste. 1700
Minneapolis, MN 55401-2138

Clayo C. Arnold, A Professional Law Corp.
c/o M. Anderson Berry
865 Howe Ave.
Sacramento, CA 95825

The Lyon Firm
c/o Joseph M. Lyon
2754 Erie Ave.
Cincinnati, OH 45208

Wolf Haldenstein Adler Freeman & Herz LLP
c/o Rachele R. Byrd
Symphony Towers
750 B Street, Suite 1820

QUESTIONS? VISIT WWW.XXXXXXXXXXXXX.COM

If you want to be represented by your own lawyer, you may hire one at your own expense.

14. How will the lawyers for the Settlement Class be paid?

Class Counsel will be paid from the Settlement Fund. Class Counsel will seek Court approval to be paid reasonable attorneys' fees up to 33.33% of the Settlement Fund or \$2,220,000, plus their expenses incurred in the Litigation up to \$30,000. The motion for attorneys' fees and expenses will be posted on the Settlement Website after it is filed.

OBJECTING TO THE SETTLEMENT

15. How do I tell the Court that I do not like the Settlement?

If you are a Settlement Class Member, you can object to the Settlement, or some part of it, and the Court will consider your views. In order to object to the Settlement, you must file with the Court a written objection (such as a letter or legal brief) stating that you object and the reasons why you think the Court should not approve some or all of the Settlement. Your objection must include: (1) your full name, telephone number, address, and email address; (2) a statement indicating the basis for your belief that you are a member of the Settlement Class; (3) the case name and number of the Litigation (*In re: Novant Health, Inc.*, Case No. 1:22-cv-00697 (M.D.N.C.)); (4) a statement about whether the objection applies only to you, to a specific subset of the Settlement Class, or to the entire Settlement Class; (5) all grounds for the objection, with any factual and legal support for the stated objection, including any supporting materials; (6) if you are represented by an attorney, or received assistance from an attorney in drafting your objection, the name, address, telephone number, and email address of the attorney; (7) a statement of whether you intend to appear at the Final Approval Hearing, and if so, whether personally or through your attorney; and (8) your personal and original signature.

If you file a timely written objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your attorney. If you are objecting and represented by counsel, and such counsel intends to speak at the Final Approval Hearing, your written objection must also include (1) the identity of witnesses whom you intend to call to testify at the Final Approval Hearing; (2) a description of any documents or evidence that you intend to offer at the Final Approval Hearing, and (3) a list, including case name, court, and docket number, of all other cases in which you or your attorney have filed an objection to any proposed class action settlement in the past three (3) years.

If you file an objection, you may still receive benefits under the Settlement so long as you timely file a valid claim. To be timely, written notice of an objection in the appropriate form described above must be filed with the Court no later than the Objection Deadline, as noted below:

United States District Court for the Middle District of North Carolina
Greensboro Division
324 W. Market St.

QUESTIONS? VISIT WWW.XXXXXXXXXXXXX.COM

THE FINAL APPROVAL HEARING

The Court will hold a hearing to decide whether to grant final approval of the Settlement. You may attend if you wish, but you are not required to do so.

16. Where and when is the Final Approval Hearing?

The Court has already given Preliminary Approval to the Settlement Agreement. A final hearing on the Settlement, called a Final Approval Hearing, will be held to determine the fairness of the Settlement Agreement.

The Court will hold a hearing on <<date>>, at <<time>> ET in the courtroom of the Honorable Chief Judge Catherine C. Eagles, Courtroom ____, which is located at 324 W. Market St., Greensboro, North Carolina 27401. The purpose of the hearing will be for the Court to determine whether the proposed Settlement is fair, reasonable, and adequate and in the best interests of the Settlement Class and to determine the appropriate amount of compensation for Class Counsel and rule on the request for a Service Award for the Class Representatives. At that hearing, the Court will be available to hear any objections and arguments concerning the fairness of the proposed Settlement. The Court will then decide whether to approve the Settlement.

YOU ARE **NOT** REQUIRED TO ATTEND THE FINAL APPROVAL HEARING TO RECIEVE BENEFITS FROM THIS SETTLEMENT. Please be aware that the hearing may be postponed to a later date without notice.

GETTING MORE INFORMATION – CONTACT:

This notice only provides a summary of the proposed Settlement. Complete details about the Settlement can be found in the Settlement Agreement available on the Settlement Website.

www.xxxxxxxxxxxxxxxxx.com

If you have any questions, you can contact the Settlement Administrator or Class Counsel at the phone numbers listed above. In addition to the documents available on the Settlement Website, all pleadings and documents filed in this Litigation may be reviewed or copied at the Clerk of Court's office.

Do Not Call Or Send Any Questions Anout The Settlement Or The Litigation To The Clerk Of The Court, The Judge, Or Novant Health Or Its Counsel. All Questions About The Settlement Should Be Referred To The Settlement Administrator Or Class Counsel.

QUESTIONS? VISIT WWW.XXXXXXXXXXXXXX.COM

EXHIBIT C

In re Novant Health, Inc.
[address]

FIRST-CLASS MAIL
U.S. POSTAGE PAID
CITY, STATE ZIP
PERMIT NO. XXXX

**NOTICE OF CLASS ACTION
SETTLEMENT**

You may be entitled to submit a claim
for monetary compensation under a
proposed class action settlement.

www.xxxxxxxxxxxxxx.com

<<Barcode>> Class Member ID:
 <<Refnum>>
 <<FirstName>> <<LastName>>
 <<BusinessName>>
 <<Address>>
 <<Address2>>
 <<City>>, <<ST>> <<Zip>>-<<zip4>>

WHO IS A CLASS MEMBER?

In the lawsuit *In re: Novant Health, Inc.*, No. 1:22-cv-00697 (M.D.N.C.), you are a Settlement Class Member if you are among the individuals who Novant Health, Inc. (“Novant Health”) identified as potentially having their personal or health-related information disclosed to a third party because of Novant Health’s use of certain Internet tracking technology on its websites or MyChart patient portal between May 1, 2020 and August 12, 2022 (the “Settlement Class”). Novant Health denies any wrongdoing and all the claims asserted against it, and the Court has not ruled that Novant Health did anything wrong.

WHAT ARE THE SETTLEMENT BENEFITS AND TERMS?

Settlement Class Members who submit a valid Claim Form may receive a pro rata cash payment from the Net Settlement Fund. The Net Settlement Fund is what remains of the \$6,660,000 Settlement Fund following the payment of the Notice and Settlement Administration Costs, any Class Representative Service Awards (\$2,500 per Class Representative), and any Attorneys’ Fees and Expenses Award (up to 33% of the Settlement Fund, plus up to \$30,000 in expenses). More information, including a copy of the Settlement Agreement, is available at www.xxxxxxxxxxxxx.com.

WHAT ARE YOUR RIGHTS AND OPTIONS?

Submit a Claim Form. To qualify for a cash payment, you must timely mail a Claim Form that is attached to this notice or complete and submit a Claim Form online at www.xxxxxxxxxxxxx.com. Your Claim Form must be postmarked or submitted online no later than _____, 2024.

Opt-Out. You may exclude yourself from the Settlement and retain your ability to sue Novant Health by mailing a written request for exclusion to the Settlement Administrator that is postmarked no later than _____, 2023. If you do not exclude yourself, you will be bound by the Settlement and give up your right to sue regarding the released claims.

Object. If you do not exclude yourself, you have the right to object to the Settlement. Written objections must be filed with the Court no later than _____, 2023, and provide the reasons for the objection.

Do Nothing. If you do nothing, you will not receive a Settlement payment and will lose the right to sue regarding the released claims. You will be bound by the Court’s decision because this is a conditionally certified class action.

Attend the Final Approval Hearing. The Court will hold a **Final Approval Hearing** at _____ m. on _____, 2024, in the U.S. District Courthouse at 324 W. Market St., Greensboro, NC 27401, to determine if the Settlement is fair, reasonable, and adequate. You may appear at the Final Approval Hearing, but you do not have to.

Who are the attorneys for the Plaintiffs and the proposed Settlement Class?

The Court appointed Gary M. Klingler, David K. Lietz, Terence R. Coates, Bryan L. Bleichner, M. Anderson Berry, Joseph M. Lyon, and Rachele R. Byrd as Class Counsel to represent the Settlement Class. If you want to be represented by your own lawyer, you may hire one at your own expense.

Do I have any obligation to pay attorneys’ fees or expenses? No. Any attorneys’ fees and expenses will be paid exclusively from the Settlement Fund as approved by the Court. The motion for attorneys’ fees and expenses will be posted on the Settlement Website after it is filed with the Court.

What is the amount of the Class Representative Service Awards? The named Plaintiffs, also called the Class Representatives, will seek Service Awards in the amount of \$2,500 each for their efforts in this case.

Who is the Judge overseeing this settlement? Chief Judge Catherine C. Eagles, United States District Judge, Middle District of North Carolina.

Where can I learn more about the case, the Settlement, and my options?

www.xxxxxxxxxxxxx.com.

In re Novant Health, Inc.
[insert address]

<<Barcode>> Class Member ID:

<<Refnum>>

CLAIM FORM

Claims for a cash payment must be postmarked no later than _____, 2023. You may also submit a Claim Form online at www.xxxxxxxxxx.com no later than _____, 2023.

NAME: _____

ADDRESS: _____

Cash Payment: Would you like to receive a cash payment under the Settlement? (circle one) Yes No

If you are a Settlement Class Member, you may receive a cash payment from the Net Settlement Fund after all claims are received.

By signing my name below, I confirm that I would like to receive a cash payment under the Settlement.

_____ (signature)

EXHIBIT D

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA**

IN RE: NOVANT HEALTH, INC.

Civil Action No. 1:22-cv-00697

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

This matter is before the Court on Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement. Plaintiffs, individually and on behalf of the proposed Settlement Class, and Defendant Novant Health, Inc. have entered into a Settlement Agreement and Release, dated October 12, 2023 (“Settlement Agreement”) that, if approved, would settle the above-captioned litigation. Having considered the Motion, the Settlement Agreement together with all exhibits and attachments thereto, the record in this matter, and the briefs and arguments of counsel, IT IS HEREBY ORDERED as follows:

1. Unless otherwise defined herein, all terms that are capitalized herein shall have the same meaning ascribed to those terms in the Settlement Agreement.
2. The Court has jurisdiction over this litigation, Plaintiffs, Defendant, and Settlement Class Members, and any party to any agreement that is part of or related to the Settlement Agreement.

PRELIMINARY APPROVAL

3. The Court has reviewed the terms of the proposed Settlement Agreement, the exhibits and attachments thereto, Plaintiffs’ motion papers and briefs, and the declarations of counsel and the Claims Administrator. Based on its review of these papers, the Court finds that the Settlement Agreement appears to be the result of serious, informed, non-collusive negotiations conducted with the assistance of renowned mediator Hunter Hughes, Esq. during a mediation

session on July 21, 2023 and follow up discussions through which the basic terms of the Settlement were negotiated and finalized. The Court further observes that the Settlement Agreement is the product of an informal exchange of information between the Parties ahead of the mediation session. The terms of the Settlement Agreement do not improperly grant preferential treatment to any individual or segment of the Settlement Class and fall within the range of possible approval as fair, reasonable, and adequate.

4. The Court therefore GRANTS preliminary approval of the Settlement Agreement and all of the terms and conditions contained therein.

PRELIMINARY CERTIFICATION OF SETTLEMENT CLASS

5. Pursuant to Federal Rule of Civil Procedure 23, the Court preliminarily certifies, for settlement purposes only, the Settlement Class defined in the Settlement Agreement as follows: All individuals residing in the United States who Defendant identified as potentially having their personal or health-related information disclosed to a third party because of Defendant's use of certain Internet tracking technology on its websites and MyChart patient portal between May 1, 2020 and August 12, 2022. Excluded from the Class are (i) Defendant, any entity in which Defendant has a controlling interest, and Defendant's affiliates, parents, subsidiaries, officers, directors, legal representatives, successors, subsidiaries, and assigns; (ii) any judge, justice, or judicial officer presiding over this Litigation and the members of their immediate families and judicial staff; and (iii) any individual who timely and validly excludes themselves from the Settlement.

6. The Court preliminarily finds that the Settlement Class satisfies the requirements of Federal Rule of Civil Procedure 23(a) for settlement purposes only: the Settlement Class is comprised of over 1 million individuals; there are questions of law or fact common to the Settlement

Class; the Class Representatives' claims are typical of those of Settlement Class Members; and the Class Representatives will fairly and adequately protect the interests of the Settlement Class.

7. The Court preliminarily finds that the Settlement Class satisfies the requirements of Federal Rule of Civil Procedure 23(b)(3) for settlement purposes only: the questions of law or fact common to the Settlement Class predominate over individual questions; and class action litigation is superior to other available methods for the fair and efficient adjudication of this controversy.

8. The Court hereby appoints Keith David Allen, Karyn Cook, Daymond Cox, Kevin Curry, Meghan Curry, Dr. Richard Nero, David Novack, Cheryl Taylor, Fernando Valencia, and Natalie Wells-Reyes as the Class Representatives of the Settlement Class. The Court provisionally finds that the Class Representatives are similarly situated to absent Settlement Class Members and therefore typical of the Class and that they will be adequate Class Representatives.

9. The Court finds the following counsel are experienced and adequate counsel and appoints them as Class Counsel for the Settlement: Gary M. Klinger and David K. Lietz of Milberg Coleman Bryson Phillips Grossman, PLLC, located at 227 W. Monroe Street, Suite 2100, Chicago, IL 60606; Terence R. Coates of Markovits, Stock & DeMarco, LLC, located at 119 E. Court Street, Suite 530, Cincinnati, OH 45202; Bryan L. Bleichner of Chestnut Cambronne PA, located at 100 Washington Ave., Ste. 1700, Minneapolis, MN 55401-2138; M. Anderson Berry of Clayco C. Arnold, A Professional Law Corp., located at 865 Howe Ave., Sacramento, CA 95825; Joseph M. Lyon of The Lyon Firm, LLC, located at 2754 Erie Ave., Cincinnati, OH 45208; and Rachele R. Byrd of Wolf Haldenstein Adler Freeman & Herz, LLP, located at Symphony Towers, 750 B Street, Suite 1820, San Diego, CA 92101.

NOTICE AND ADMINISTRATION

10. Pursuant to the Settlement Agreement, Class Counsel will engage Postlethwaite & Netterville (“P&N”) as the Settlement Administrator. P&N shall perform all the duties of the Settlement Administrator set forth in the Settlement Agreement.

11. The Court finds that the Class Notice and Notice Program set forth in the Settlement Agreement satisfy the requirements of due process and Rule 23 of the Federal Rules of Civil Procedure and provide the best notice practicable under the circumstances. The Class Notice and Notice Program are reasonably calculated to apprise Settlement Class Members of the nature of this Litigation, the scope of the Settlement Class, the terms of the Settlement Agreement, the right of Settlement Class Members to object to the Settlement Agreement or exclude themselves from the Settlement Class and the processes for doing so, and the Final Approval Hearing. The Court therefore approves the Class Notice and Notice Program and directs the Settlement Administrator to proceed with providing notice to Settlement Class Members pursuant to the terms of the Settlement Agreement and this Order.

12. The Settlement Administrator shall commence the Notice Program within the time required by the Settlement Agreement.

13. The Court also approves the Claim Form.

EXCLUSION AND OBJECTIONS

14. Settlement Class Members who wish to opt out and exclude themselves from the Settlement Class may do so by notifying the Settlement Administrator in writing, postmarked no later than _____ (120 calendar days after entry of this Order). To be valid, each request for exclusion must be made in writing and: (a) state the Settlement Class Member’s full name, address and telephone number; (b) include the case name and number of the Litigation (*In*

re: Novant Health, Inc., Case No. 1:22-cv-00697); (c) contain the Settlement Class Member's personal and original signature; and (d) state unequivocally the Settlement Class Member's intent to be excluded from the Settlement. All Requests for Exclusion must be submitted individually in connection with a Settlement Class Member, *i.e.*, one request is required for every Settlement Class Member seeking exclusion. Any request seeking exclusion of more than one Settlement Class Member will be invalid and rejected by the Settlement Administrator.

15. All Settlement Class Members who do not opt out and exclude themselves shall be bound by the terms of the Settlement Agreement upon entry of a Final Approval Order and Judgment.

16. Settlement Class Members who wish to object to the Settlement may do so by submitting a written Objection to the Court in accordance with the procedures outlined in the Class Notice, postmarked no later than _____ (120 calendar days after entry of this Order). Any Settlement Class Member wishing to comment on or object to the Settlement Agreement shall file their Objection with the Court. All such written objections to the Settlement Agreement must include all of the following: (i) the Settlement Class Member's full name, current address, telephone number, and email address; (ii) the case name and number of the Litigation (*In re: Novant Health, Inc.*, Case No. 1:22-cv-00697 (M.D.N.C.)); (iii) the Settlement Class Member's personal and original signature; (iv) a statement indicating the basis for the Settlement Class Member's belief that he or she is a member of the Settlement Class; (v) a statement of the legal and/or factual basis for the objection; (vi) a statement about whether the objection applies only to the Settlement Class Member, to a specific subset of the Settlement Class, or to the entire Settlement Class; (vii) if the Settlement Class Member is represented by an attorney, or received assistance from an attorney in drafting the objection, the name, address, telephone number, and email address of the attorney; and

(viii) a statement of whether the Settlement Class Member intends to appear at the Final Approval Hearing, and if so, whether personally or through his or her attorney.

17. If an objecting Settlement Class Member is represented by an attorney, and such attorney intends to speak at the Final Approval Hearing, the written objection must also include: (i) the identity of witnesses whom the Settlement Class Member intends to call to testify at the Final Approval Hearing; (ii) a description of any documents or evidence that the Settlement Class Member intends to offer at the Final Approval Hearing; and (iii) a list, including case name, court, and docket number, of all other cases in which the Settlement Class Member or their attorney has filed an objection to any proposed class action settlement in the past three (3) years.

18. Any Settlement Class Member who does not timely submit a written objection in accordance with these procedures and the procedures detailed in the Class Notice and Settlement Agreement shall be deemed to have waived any objection, shall not be permitted to object to the Settlement, and shall be precluded from seeking any review of the Settlement Agreement or the Final Approval Order by appeal or other means.

FINAL APPROVAL HEARING

19. The Court will hold a Final Approval Hearing on _____ at _____ in the United States District Court, Middle District of North Carolina, Winston-Salem Division, 324 W. Market St., Greensboro, North Carolina 27401.

20. At the Final Approval Hearing, the Court will consider whether: (a) the Settlement is fair, reasonable, and adequate; (b) the Settlement Class should be finally certified; (c) the preliminary appointment of Class Counsel should be made final; (d) the preliminary appointment of the Class Representatives should be made final; (e) Class Counsel's motion for

Attorneys' Fees and Litigation Expenses should be granted; (f) the Service Awards sought for Class Representatives should be granted; and (g) a final judgment should be entered.

21. The Court reserves the right to continue the date of the Final Approval Hearing without further notice to Settlement Class Members.

DEADLINES, INJUNCTION & TERMINATION

<u>From Order Granting Preliminary Approval</u>	
Defendant will provide the list of available addresses for Settlement Class Members to the Settlement Administrator	+30 Days
Defendant's payment of Settlement Fund to Settlement Administrator	+30 Days
Notice Date	+60 Days
Counsel's Motion for Attorneys' Fees and Reimbursement of Litigation Costs and Expenses	+105Days
Objection Date	+120 Days
Opt-Out Date	+120 Days
Claim Deadline	+150 Days
<u>Final Approval Hearing</u>	
Motion for Final Approval	160 Days from Order Granting Preliminary Approval 14 Days before Final Approval Hearing
<u>From Effective Date</u>	
Payment of Attorneys' Fees and Litigation Expenses and Class Representatives' Service Awards	+30 Days
Mailing of Claim Payments to Claimants	+30 Days
Cy Pres Distribution of the Residual Funds	+120 Days after the issuance of the last settlement payment to a Class Member
Deactivation of Settlement Website	+120 Days

22. All proceedings and deadlines in this matter, except those necessary to implement this Order and the Settlement, are hereby stayed and suspended until further order of the Court.

23. All Settlement Class Members who do not validly opt out and exclude themselves are hereby enjoined from pursuing or prosecuting any of the Released Claims as set forth in the Settlement Agreement until further order of the Court.

24. In the event that the Settlement Agreement is terminated pursuant to the terms of the Settlement Agreement: (a) the Settlement Agreement and this Order shall become void, shall have no further force or effect, and shall not be used in the Litigation or any other proceedings for any purpose other than as may be necessary to enforce the terms of the Settlement Agreement that survive termination; (b) this matter will revert to the status that existed before execution of the Settlement Agreement; and (c) no term or draft of the Settlement Agreement or any part of the Parties' settlement discussions, negotiations or documentation (including any briefs filed in support of preliminary or final approval of the Settlement) shall be (i) admissible into evidence for any purpose in this Litigation or in any other action or proceeding other than as may be necessary to enforce the terms of the Settlement Agreement that survive termination, (ii) deemed an admission or concession by any Settling Party regarding the validity of any of the Released Claims or the propriety of certifying any class against Defendant, or (iii) deemed an admission or concession by any Party regarding the truth or falsity of any facts alleged in the Litigation or the availability or lack of availability of any defense to the Released Claims.

IT IS SO ORDERED.

Dated: _____

HON. CHIEF JUDGE CATHERINE C. EAGLES
UNITED STATES DISTRICT COURT JUDGE

EXHIBIT 2

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA
WINSTON-SALEM DIVISION**

In re: Novant Health, Inc.

LEAD Case No. 1:22-cv-00697

**DECLARATION OF GARY M. KLINGER IN SUPPORT OF PLAINTIFFS’
UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION
SETTLEMENT**

I, Gary M. Klinger, being competent to testify, make the following declaration:

1. I am currently a partner of the law firm of Milberg Coleman Bryson Phillips Grossman, PLLC (“Milberg”). I am one the lead attorneys for Plaintiffs and seek appointment as Class Counsel for the proposed Settlement Class. I submit this declaration in support of Plaintiffs’ Unopposed Motion for Preliminary Approval of Class Action Settlement. Except as otherwise noted, I have personal knowledge of the facts set forth in this declaration and could testify competently to them if called upon to do so. A true and correct copy of the Settlement Agreement (“Agreement” or “Agr.”) is attached to the Memorandum in Support of the motion as Exhibit 1.

1. I have been licensed to practice law in the State of Illinois since 2010, am a member of the bars of numerous federal district and appellate courts, and have decades of litigation and class action experience generally and data breach class action experience in particular. My experience, and that of my law firm, is described below.

2. Milberg Attorneys have served as Lead Counsel, Co-Counsel, or Class Counsel on hundreds of complicated and complex class actions. *See* Milberg Firm Resume, **Exhibit A.**

3. These cases recently include cutting-edge litigation, including: *In re Dealer Management Systems Antitrust Litig.*, No. 1:18-cv-00864 (N.D. Ill. 2018) (appointed co-lead counsel; partial settlement of \$29.5 million, case on-going); *In re Seresto Flea and Tick Collar Marketing, Sales Practices, & Products Liability Litigation*, Case No. 1:21-cv-04447 (N.D. Ill. 2021) (appointed co-lead counsel; case on-going); and *Carder v. Graco Children's Products, Inc.*, No. 2:20-cv-00137 (N.D. Ga. 2020) (appointed interim co-lead counsel; case on-going).

4. With respect to privacy cases, Milberg is presently litigating more than fifty (50) cases across the country involving violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.*, privacy violations, data breaches, and ransomware attacks. Milberg Attorneys have served as Lead Counsel, Co-Counsel, or Class Counsel in numerous data breach and privacy class actions, including *In re Blackbaud, Inc. Consumer Data Security Breach Litigation*, MDL 2972, Case No. 3:20-mn-02972 (D.S.C. 2020) (appointed co-lead counsel; case on-going).

5. Milberg Attorneys have also participated in other data breach and privacy litigation recently, which include: *Veiga v. Respondus, Inc.*, No. 1:21-cv-02620 (N.D. Ill. 2021); *Dickerson v. CDPQ Colonial Partners, L.P.*, No. 1:21-cv-02098 (N.D. Ga. 2021); *In re Wawa, Inc. Data Security Litig.*, No. 2:19-cv-06019 (E.D. Pa. 2019); *Whalen v.*

Facebook, Inc., No. 4:20-cv-06361 (N.D. Cal. 2020); and *K.F.C. v. Snap, Inc.*, No. 21-2247 (7th Cir. 2021).

6. It is noteworthy that in the past 3 years (since March 2020 through the present), I (either individually, or as a member of the law firms in which I have been a partner during that timeframe) have been appointed class counsel in a number of data breach and/or data privacy cases, including, but not limited to, the following:

- a. *Kenney et al. v. Centerstone of America, Inc.*, No. 3:20-cv-01007 (M.D. Tenn.) (appointed co-class counsel in data breach class action settlement involving over 63,000 class members; final approval granted Aug. 2021);
- b. *Baksh v. Ivy Rehab Network, Inc.*, No. 7:20-cv-01845-CS (S.D.N.Y.) (class counsel in a data breach class action settlement; final approval granted Feb. 2021);
- c. *Mowery v. Saint Francis Healthcare System*, No. 1:20-cv-00013-SRC (E.D. Mo.) (appointed class counsel; final approval granted Dec. 2020);
- d. *Chatelain v. C, L & W PLLC d/b/a Affordacare Urgent Care Clinics*, No. 50742-A (42nd District Court for Taylor County, Texas) (appointed class counsel; settlement valued at over \$7 million; final approval granted Feb. 2021);
- e. *Jackson-Battle v. Navient Health, Inc.*, No. 2020-CV-072287 (Superior Court of Bibb County, Georgia) (appointed class counsel in data breach case involving 360,000 patients; final approval granted Aug. 2021);
- f. *Bailey v. Grays Harbor County Public Hospital District*, No. 20-2-00217-14 (Grays Harbor County Superior Court, State of Washington) (appointed class counsel in hospital data breach class action involving approximately 88,000 people; final approval granted Sept. 2020);
- g. *Richardson v. Overlake Hospital Medical Center*, No. 20-2-07460-8 SEA (King County Superior Court, State of Washington)

- (appointed class counsel in data breach case, final approval granted September 2021);
- h. *Klemm v. Maryland Health Enterprises Inc.*, No. C-03-CV-20-022899 (Circuit Court for Baltimore County, Maryland) (appointed class counsel; final approval granted November 2021);
 - i. *In re GE/CBPS Data Breach Litig.*, No. 1:2020-cv-02903, Doc. 35 (S.D.N.Y.) (appointed co-lead counsel in nationwide class action);
 - j. *Nelson v. Idaho Central Credit Union*, No. CV03-20-00831 (Bannock County, Idaho) (appointed co-lead counsel in data breach class action involving 17,000 class members; granted final approval of settlement valued at \$3.3 million);
 - k. *In re Canon U.S.A. Data Breach Litig.*, Master File No. 1:20-cv-06239- AMD-SJB (E.D.N.Y.) (appointed co-lead counsel);
 - l. *Suren v. DSV Solutions, LLC*, No. 2021CH000037 (Circuit Court for the Eighteenth Judicial Circuit of DuPage County, Illinois) (appointed Settlement Class Counsel, final approval granted Sept. 27, 2021);
 - m. *Chacon v. Nebraska Medicine*, No. 8:21-cv-00070-RFR-CR (D. Neb.) (appointed class counsel in data breach settlement, final approval granted Sept. 2021);
 - n. *Aguallo v. Kemper Corp.*, No. 1:21-cv-01883 (N.D. Ill.) (appointed Co-lead Counsel, final approval granted of \$17.1 million class settlement);
 - o. *In re Herff Jones Data Breach Litig.*, Master File No. 1:21-cv-1329-TWP- DLP (S.D. Ind.) (appointed co-lead counsel in data breach involving over 1 million persons; preliminary approval of \$4.35 million settlement granted Jan. 2022);
 - p. *In re CaptureRx Data Breach Litig.*, No. 5:21-cv-00523-OLG (W.D. Tex.) (appointed co- lead counsel in data breach case involving over 2.4 million class members; preliminary approval of \$4.75 million settlement granted Feb. 2022);

- q. *In re Arthur J. Gallagher Data Breach Litig.*, No. 1:21-cv-04056 (N.D. Ill.) (appointed co-lead counsel in data breach case involving over 3 million class members);
- r. *Heath v. Insurance Technologies Corp.*, No. 21-cv-01444 (N.D. Tex.) (\$11 million settlement for a major data breach involving more than 4 million consumers);
- s. *Hough v. Navistar, Inc.*, No.: 2021L001161 (Ill. 18th Jud. Cir. Crt., DuPage Cnty.) (appointed co-lead class counsel; final approval granted May 2022);
- t. *Clark v. Mercy Hospital*, No. CVCV082275 (Iowa Dist. Crt, Johnson Cnty.) (appointed class counsel; final approval granted July 2022);
- u. *Myschka v. Wolfe Clinic, P.C. d/b/a Wolfe Eye Clinic*, (Iowa Dist. Crt., Marshall Cnty.) (appointed class counsel; final approval granted June 2022);
- v. *Devine v. Health Aid of Ohio, Inc.*, (Ohio Court of Common Pleas, Cuyahoga Cnty.) (appointed class counsel; final approval granted September 2022);
- w. *Davidson v. Healthgrades Operating Company, Inc.*, No. 1:21-cv-01250- RBJ (D. Colo.), (appointed class counsel; final approval granted August 2022);
- x. *Bodie v. Capitol Wholesale Meats, Inc.*, No. 2022CH000020 (Ill. 18th Jud. Cir. Crt., DuPage Cnty.) (appointed class counsel; final approval granted March 2022);
- y. *Culp v. Bella Elevator LLC*, No. 2021-CH-00014 (Ill. 10th Jud. Cir. Crt., Peoria Cnty.) (appointed class counsel; final approval granted May 2022);
- z. *Cain v. OSF Healthcare*, No. 21-L-00231 (Circuit Court for the Tenth Judicial Circuit of Peoria County, Illinois) (appointed settlement class counsel; final approval granted January 2023);

- aa. *Nelson v. Bansley & Kiener*, No. 2021-CH-06274 (Ill. Cir. Ct., Cook Cnt’y) (appointed class counsel; final approval granted November 2022);
- bb. *Steen v. The New London Hospital Association, Inc.*, No. 217-2021- CV-00281 (Merrimack Superior Court, New Hampshire) (appointed class counsel; final approval granted January 2023);
- cc. *Summers II v. Sea Mar Community Health Ctrs.*, No. 22-2-00773-7 SEA (Wash. Sup. Ct., King Co.) (appointed class counsel; final approval granted December 2022);
- dd. *In re Forefront Data Breach Litig.*, Master File No. 1:21-cv-00887-LA (E.D. Wisc.) (appointed settlement class counsel; final approval granted March 2023);
- ee. *Engle v. Talbert House*, No. A2103650 (Court of Common Pleas, Hamilton County, Ohio) (appointed class counsel; final approval granted February 2023);
- ff. *Henderson v. San Juan Regional Medical Center*, No. D-1116-CV- 2021-01043 (11th Jud. Dist. Ct., County of San Juan, NM) (appointed class counsel; final approval granted March 2023);
- hh. *Cathy Shedd v. Sturdy Memorial Hospital, Inc.*, No. 2173 CV 00498 (Mass. Sup. Ct. Dept.) (appointed class counsel; final approval granted February 2023);
- ii. *Hawkins v. Startek, Inc.*, No. 1:22-cv-00258-RMR-NRN (D. Colo.) (appointed class counsel; final approval granted April, 2023);
- jj. *McHenry v. Advent Health Partners, Inc.*, Case No. 3:22-cv-00287 (M.D. Tenn.) (appointed settlement class counsel; final approval granted April 2023);
- kk. *Beasley v. TTEC Services Corp.*, No. 22-cv-00097-PAB-STV (USDC CO) (appointed class counsel; preliminary approval granted May 2023);

- ll. *Boyd v. Public Employees Credit Union*, No. 1:22-cv-00825-LY (W.D. Tex.) (appointed class counsel; final approval granted June 2023);
- mm. *Charlie v. Rehoboth McKinley Christian Healthcare Services*, No. 21-652 SCY/KK (USDC NM)(appointed class counsel; final approval granted July 2023);
- nn. *Sharma et al. v. Accutech Systems Corporation*, Case No. 18C02-2210-CT-000135 (Delaware Circuit Court 2, Delaware County, Indiana) (appointed Class Counsel; preliminary approval granted January 2023);
- oo. *Simmons v. Assistcare Home Health Services, LLC*, No. 511490/2021 (Supreme Court of the State of New York, County of Kings) (appointed settlement class counsel; final approval granted August 2023);
- pp. *Bailey v. Alacrity Solutions Group, LLC*, No. 29D03-2204-PL-002383 (Hamilton County (Indiana) Superior Court) (appointed class counsel; final approval granted June 2023);
- qq. *Retsky v. Super Care, Inc d/b/a/ Supercare Health*, No. 22STCV16267 (Los Angeles County California Superior Court) (appointed class counsel; final approval granted August 2023);
- rr. *In re Medical Review Institute of America, LLC, Data Breach Litig.*, No. 2:22cv0082-DAK-DAO (D. Utah) (appointed co-lead class counsel; final approval granted August 2023);
- ss. *Colon v. Creative Ventures Inc.*, Case Number 2023LA000177 (In the Circuit Court of the Eighteenth Judicial Circuit, Dupage County, Illinois) (appointed settlement class counsel; final approval granted September 2023);
- tt. *Jones v. Horizon House, Inc.*, No. 01767, Control No. 23030116 (Court of Common Pleas of Philadelphia County, First Judicial District of Pennsylvania) (appointed class counsel; preliminary approval granted April 2023);

uu. *Keefe v. Froedtert Health, Inc.*, No. 2023CV001935 (Circuit Court of Wisc., Milwaukee Cty.) (appointed settlement class counsel; final approval granted September 29, 2023).

8. I have been appointed by state and federal courts to act as Class Counsel for millions of consumers and recovered hundreds of millions of dollars for consumers throughout the country. Presently, I am lead or co-lead counsel in more than thirty (30) active class action lawsuits pending in state and federal courts across the country.

9. Some of my notable successes include obtaining final approval of a class-wide settlement for a major data breach class action involving more than six million consumers. *See Carrera Aguallo v. Kemper Corp.*, Case No. 1:21-cv-01883 (N.D. Ill. Oct. 27, 2021) (where I, as appointed co-lead counsel, obtained final approval of a \$17.6 million dollar settlement to resolve data breach class action claims against Kemper Corporation in a case involving more than six million class members)

10. I serve as one of two Court-appointed Lead Counsel in the data breach case, *In re Canon U.S.A. Data Breach Litig.*, No. 1:20-cv-06239-AMD-SJB (S.D.N.Y. filed Dec. 23, 2020).

11. I was also appointed Co-Lead Counsel in the data breach case, *In re Herff Jones Data Breach Litig.*, Master File No. 1:21-cv-1329-TWP-DLP (S.D. Ind.), which involved more than one million class members and was finally approved on a class-wide basis for a \$4.35 million settlement.

12. I served as co-lead counsel in the consolidated data breach litigation styled, *In Re: CaptureRx Data Breach Litigation*, No. 5:21-cv-00523-OLG (W.D. Tex.), which

involved more than 2.4 million class members and was finally approved on a class-wide basis for a \$4.75 million settlement.

13. I was appointed co-lead counsel to represent more than three million class members in another major data breach class action in the Seventh Circuit. *See In re Arthur J. Gallagher Data Breach Litig.*, No. 1:21-cv-04056 (N.D. Ill.).

14. I successfully litigated privacy class actions through class certification. *In Karpilovsky v. All Web Leads, Inc.*, No. 17 C 1307, 2018 WL 3108884, at *1 (N.D. Ill. June 25, 2018), where I certified, over objection, a nationwide privacy class action involving more than one million class members.

15. In a recent nationwide privacy class settlement hearing in the U.S. District Court for the Northern District of California, Judge Richard Seeborg personally commended me for having achieved “quite a substantial recovery for class members.” Judge Seeborg further stated he could not recall any class action case where “the amounts going to each class member were as substantial” as that obtained by me (and my co-counsel).

16. In addition to concentrating my practice on class action litigation involving consumer, privacy, and product liability matters, I also make substantial efforts to stay apprised of the current law on these issues. In recent years, I have attended various legal training seminars and conferences, such as the dri conference for Class Actions, The Consumer Rights Litigation Conference and Class Action Symposium, as well as attended various seminars offered by Strafford on class action issues.

17. I am also a member of the International Association of Privacy Professionals and a Certified Information Privacy Professional (CIPP/US).

18. I graduated from the University of Illinois at Urbana-Champaign in 2007 (B.A. Economics), and from the University of Illinois College of Law in 2010 (J.D., cum laude). While at the U of I College of Law, I was a member of, and ultimately appointed as the Executive Editor for the Illinois Business Law Journal. My published work includes: *The U.S. Financial Crisis: Is Legislative Action the Right Approach?*, Ill. Bus. L. J. (Mar. 2, 2009).

19. I am presently pursuing a Master of Laws (LLM) in Data Privacy and Cybersecurity from the University of Southern California Gould School of Law.

20. I became licensed to practice law in the State of Illinois in 2010 and am a member of the Trial Bar for the Northern District of Illinois, as well as the U.S. Bankruptcy Court for the Northern District of Illinois. Additionally, I am admitted to practice in federal courts across the country, including, but not limited to, the U.S. District Courts for the District of Colorado, the Central District of Illinois, the Northern District of Illinois, Northern District of Indiana, Southern District of Indiana, Eastern District of Michigan, and the Eastern District of Texas.

21. In addition to my personal qualifications, I bring the support and resources of Milberg to this case on behalf of the putative class. Milberg pioneered federal class action litigation and is widely recognized as a leader in defending the rights of victims of corporate and other large-scale wrongdoing, repeatedly taking the lead in landmark cases that have set groundbreaking legal precedents, prompting changes in corporate governance,

and recovering over \$50 billion in verdicts and settlements. A brief firm biography is attached to this declaration as **Exhibit A**.

22. Milberg is and has been one of the nation's most prominent class action law firms since its founding in 1965. Milberg continues to break new ground in cybersecurity and data privacy cases, including taking a co-lead counsel role in the high-profile *In re Blaukbaud, Inc. Customer Data Security Breach Litigation* (MDL 2972) that has established pleading standards and Art. III standing guidelines for data breach cases. Milberg has and is litigating multiple class actions against other companies within the same industry as Creative Services.

23. My experience and Milberg's data breach experience compare favorably with that of any law firm in the country. The firm has ample resources (both financial and personnel, with over 100 attorneys at the firm) to fully and adequately represent the interests of the proposed class here.

25. Along with my firm, I am joined in representing Plaintiffs and the Class in this case by several other attorneys and their law firms—Terence R. Coates of Markovits, Stock & DeMarco, LLC; Bryan L. Bleichner of Chestnut Cambronne, PA; M. Anderson Berry of Clayco C. Arnold, A Professional Law, Corp.; Rachele R. Byrd of Wolf Haldenstein Adler Freeman & Herz, LLP; and Joseph M. Lyon of The Lyon Law Firm—with deep experience in class actions, especially privacy cases. Their resumes are attached hereto as **Exhibits B-F**.

CASE BACKGROUND

26. Class Counsel have invested considerable time and resources into the investigation of the facts underlying the claims and the prosecution of this action. Plaintiffs vigorously and aggressively gathered all of the information that was available regarding Novant Health and its use of Tracking Tools—including publicly-available documents concerning the Pixel Disclosure and notice sent to Settlement Class Members regarding the same.

27. Since the outset of this litigation, the firms have cooperatively and effectively collaborated to prosecute, and ultimately resolve, this case on behalf of our clients and the Class. They have performed work critical to achieving benefits for the Class, including by investigating the facts surrounding the Pixel Disclosure and/or Defendant's use of Tracking Tools, researching and analyzing legal claims under state and federal law and common law, preparing and filing the initial Complaints and the subsequent Consolidated Class Action Complaint, substantial motion and discovery practice, participating in meetings with defense counsel to discuss the parties' respective positions, preparing for and participating in a formal mediation, negotiating the proposed Settlement, and drafting the Settlement Agreement, its exhibits, and this motion for preliminary approval.

28. As noted above, and as reflected in the respective firm resumes filed herewith, Class Counsel are qualified, experienced, and able prosecute this litigation. Class Counsel have a wealth of experience in litigating complex class action lawsuits similar to this one and have extensive knowledge of the applicable law and sufficient resources to commit to the Settlement Class.

29. Throughout the pendency of this case, I and my co-counsel have maintained regular contact with Plaintiffs to discuss with them the prosecution of the case. With the assistance of counsel, Plaintiffs have been at the helm of this case and continue to be focused on the advancement of the interests and claims of the Class over their own interests. Plaintiffs have always been concerned about obtaining a result that was best for the Class. Plaintiffs have been personally involved in the case and support the Settlement. Plaintiffs are adequate class representatives with no conflicts of interest.

30. After investigating the facts and carefully considering applicable law, Plaintiffs and Class Counsel have concluded that it is in the best interests of the Settlement Class Members to enter into the Settlement in order to avoid the uncertainties of litigation and to assure meaningful and timely benefits to the Settlement Class Members. I, along with Plaintiffs and other Class Counsel, respectfully submit that the terms and conditions of this Settlement are fair, reasonable, adequate, and in the best interests of all Settlement Class Members.

31. Throughout the settlement process, my co-counsel and I carefully weighed with the Plaintiffs: (1) the benefits to the Class under the terms of the Settlement Agreement, which provides significant relief to the Class; (2) the quantum of damages which might have been sustained by individual Settlement Class Members, the likelihood that in the absence of a class action consumers would not pursue individual claims, particularly due to the high cost and expense, including the cost of cyber and damage experts to litigate these claims if pursued in individual litigation, and the fact that the quantum of damages would not justify the retention of an attorney, either on an hourly or

contingent basis, to pursue the claims individually; (3) the difficulty in proving and calculating those damages; (4) the attendant risks and uncertainty of litigation, as well as the difficulties and delays inherent in such litigation including the challenges to certification of a class; (5) Defendant's vigorous defense of the litigation and continued denial of the claims contained in the Complaint; (6) the desirability of consummating the present Settlement Agreement to ensure that the Class receives a fair and reasonable Settlement; and (7) providing Settlement Class Members prompt relief.

MEDIATION & SETTLEMENT

32. The Parties agreed to mediation with an experienced mediator, Hunter R. Hunter. Before the mediation session with Mediator Hughes, Plaintiffs sent informal settlement requests for settlement purposes to Novant Health. Plaintiffs received responses to these requests before mediation.

33. The Parties then participated in mediation under Mediator Hughes's guidance on July 21, 2023. The mediation session was productive, but did not result in a settlement in principle. The Parties continued to conduct settlement discussions over the next several weeks and ultimately reached a settlement in principle for a \$6,660,000 non-reversionary common fund on August 21, 2023. The settlement in principle, which has now been detailed in full in the Settlement Agreement, resolves all matters pertaining to, arising from, or associated with this Litigation, including all claims Plaintiffs and Settlement Class Members have or may have had against Novant Health and related persons and entities relating to the Defendant's use of Tracking Tools and the Pixel Disclosure. The Parties'

settlement negotiations included evaluating and discussing the relevant facts and law, including the risks and uncertainties of continued litigation.

THE SETTLEMENT WARRANTS PRELIMINARY APPROVAL

34. The Settlement in this matter will provide tangible cash benefits to Class Members who submit valid claims. From the Settlement Fund, Class Members will receive pro rata cash payments after the deduction of any attorneys' fees and expenses, Postlethwaite & Netterville's settlement administration fees and expenses, and Class Representative Service Awards. It is my opinion that the Settlement Agreement provides significant benefits to Settlement Class Members.

35. The relief provided by the Settlement is reasonable and adequate, particularly in light of the risks and delay of trial and associated appeals.

36. Given the heavy obstacles and inherent risks Plaintiffs face with respect to the novel claims involved in data privacy class actions, including class certification, summary judgment, and trial, the substantial benefits the Settlement provides favors preliminary approval of the Settlement.

37. This Settlement was negotiated at arm's-length between highly competent counsel for both the Plaintiffs and Defendant. The Parties participated in a formal mediation with a well-regarded private mediator (Hunter R. Hughes.), which is evidence that the negotiations were at arms'-length and non-collusive. This Settlement was only achieved after months of hotly contested negotiations.

38. Given my extensive experience with class action settlements, it is my informed opinion that the Notice Program, with all attendant forms and as outlined in the

Settlement Agreement, makes every effort to ensure that Class Members will be made aware of their right to a recovery under the Settlement.

THE CLASS REPRESENTATIVES ARE ADEQAUTE

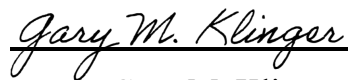
39. Plaintiffs Keith David Allen, Karyn Cook, Daymond Cox, Kevin Curry, Meghan Curry, Dr. Richard Nero, David Novack, Cheryl Taylor, Fernando Valencia, and Natalie Wells-Reyes have stayed informed about this litigation and settlement negotiations. They have reviewed and approved the terms of the Settlement Agreement and have spent substantial time protecting the Class’s interests.

40. As current or former Novant Health patients who received notice that their personal information may have been disclosed by Novant Health through its use of Tracking Tools, Plaintiffs have no conflicts with the Class they seek to represent.

* * * * *

I declare under penalty of perjury under the laws of the State of North Carolina that that foregoing is true and correct.

Executed this 12th day of October, 2023, at Chicago, Illinois



Gary M. Klinger

EXHIBIT A

EXHIBIT A



Gary M. Klinger is a Partner at Milberg Coleman Bryson Phillips Grossman PLLC (“Milberg”).¹ At only 37-years old, Mr. Klinger has gained extensive experience serving as leadership in numerous high-profile consumer and privacy class actions. Notably, Mr. Klinger has settled on a class-wide basis more than forty class actions, the majority of which were privacy cases, as lead or co-lead counsel recovering more than a hundred million dollars for consumers in the process. Some of Mr. Klinger’s representative cases include the following:

- *Carrera Aguallo v. Kemper Corp.*, Case No. 1:21-cv-01883 (N.D. Ill. Oct. 27, 2021) (where Mr. Klinger obtained final approval of a class-wide settlement valued at \$17.6 million for a major class action involving more than six million consumers);
- *Heath v. Insurance Technologies Corp.*, No. 21-cv-01444 (N.D. Tex.) (where Mr. Klinger obtained approval of a class-wide settlement for \$11 million);
- *In Re: Procter & Gamble Aerosol Products Marketing and Sales Practices Litigation*, 2:22-md-03025-MHW-CMV (N.D. Ohio) (where Mr. Klinger serves as one of the lead attorneys in multi-district litigation against Procter & Gamble and successfully reached a settlement valued over \$10 million);
- *Smid v. Nutranext, LLC*, Case No. 20L0190 (Cir. Ct. St. Clair, County) (class counsel in consumer class action involving heavy metals in prenatal vitamins; final approval granted to \$7M settlement)
- *In re: Herff Jones Data Breach Litigation*, Master File No. 1:21-cv-1329-TWP-DLP (S.D. Ind.) (where Mr. Klinger obtained approval of a class-wide settlement for \$4.35 million);
- *In re: CaptureRx Data Breach Litigation*, No. 5:21-cv-00523-OLG (W.D. Tex.) (where Mr. Klinger obtained approval of a class-wide settlement for \$4.75 million);
- *In re Arthur J. Gallagher Data Breach Litigation*, No. 1:21-cv-04056 (N.D. Ill.) (where Mr. Klinger serves as appointed co-lead counsel to represent more than 3 million class members in a major class action).

Mr. Klinger has also successfully litigated class actions through contested class certification. In *Karpilovsky v. All Web Leads, Inc.*, No. 17 C 1307, 2018 WL 3108884, at *1 (N.D. Ill. June 25, 2018), Mr. Klinger certified, over objection, a nationwide privacy class action involving more than one million class members. *Id.* At the time, it was the largest litigation class ever to be certified for violations of the Telephone Consumer Protection Act. In a nationwide class settlement hearing in the U.S. District Court for the Northern District of California, Judge Richard Seeborg personally commended Mr. Klinger for “quite a substantial recovery for class members.” Judge Seeborg further stated he could not recall any class action case where “the amounts going to each class member were as substantial” as that obtained by Mr. Klinger (and his co-counsel).

Mr. Klinger is admitted to practice in the State of Illinois and the following federal courts: The U.S. District Court of Colorado, The U.S. District Court of Central District of Illinois, The U.S.

¹ A copy of Milberg’s Firm Resume is attached hereto as Exhibit A.

District Court of Northern District of Illinois, The U.S. District Court of Southern District of Illinois, The U.S. District Court of Southern District of Indiana, The U.S. District Court of Eastern District of Michigan, The U.S. District Court of District of Nebraska, The U.S. District Court of Eastern District of Texas, and The U.S. District Court of Eastern District of Wisconsin.

Mr. Klinger received his undergraduate degree and juris doctorate (*cum laude*) from the University of Illinois.

Mr. Klinger is presently pursuing his Masters of Laws (LLM) in Data Privacy and Cybersecurity from the University of Southern California Gould School of Law.

Mr. Klinger is also a member of the International Association of Privacy Professionals.

EXHIBIT A



FIRM RESUME

WHO WE ARE

Established by members of Milberg Phillips Grossman LLP, Sanders Phillips Grossman LLC, Greg Coleman Law PC, and Whitfield Bryson LLP, the firm represents plaintiffs in the areas of antitrust, securities, financial fraud, consumer protection, automobile emissions claims, defective drugs and devices, environmental litigation, financial and insurance litigation, and cyber law and security.

For over 50 years, Milberg and its affiliates have been protecting victims' rights and have recovered over \$50 billion for our clients. Our attorneys possess a renowned depth of legal expertise, employ the highest ethical and legal standards, and pride ourselves on providing stellar client service. We have repeatedly been recognized as leaders in the plaintiffs' bar and appointed to leadership roles in prominent mass torts and class actions.

Milberg challenges corporate wrongdoing through class action, mass tort, consumer and shareholder rights services, both domestically and globally.

Milberg's previous litigation efforts helped to create a new era of corporate accountability that put big companies on notice. The strategic combination of four leading plaintiffs' firms offers clients expanded capabilities, greater geographical coverage, enhanced financial breadth, and increased operational capacity. It also enables the firm to serve diverse and global clients who are seeking to enforce their rights against well-financed corporations - wherever they operate.

www.milberg.com

PRACTICE AREAS

ANTITRUST & COMPETITION LAW

Today, on a global scale, consolidated corporate entities exercise dominating market power, but proper enforcement of antitrust law ensures a fair, competitive marketplace. Milberg prosecutes complex antitrust class actions against large, well-funded corporate defendants in healthcare, technology, agriculture, and manufacturing. Our leading practitioners successfully represent plaintiffs affected by price-fixing, monopolization, monopoly leveraging tying arrangements, exclusive dealing, and refusals to deal. The firm continues aggressively vindicating rights of plaintiffs victimized by antitrust violations, holding companies accountable for anticompetitive behavior.

COMPLEX LITIGATION

With 50 years of vetted success, Milberg handles complex, high-stakes cases at any stage of the litigation process. Our attorneys have experience litigating complex cases for businesses and plaintiffs outside of the class action context, including business torts, contract disputes, anti-SLAPP motions, corporations, LLCs, partnerships, real estate, and intellectual property.

CONSUMER PRODUCTS

Milberg's consumer litigation group focuses on protecting victims of deceptive marketing and advertising of goods and services, or those who have bought defective products. Our attorneys are experienced in handling a wide array of consumer protection lawsuits, including breach of contract, failure to warn, false or deceptive advertising of goods and services, faulty, dangerous, or defective products, warranty claims and unfair trade practices cases. Milberg has achieved real-world recoveries for clients, often requiring corporations to change the way they do business. Our team of attorneys has extensive experience representing plaintiffs against well-resourced and sophisticated defendants.

CONSUMER SERVICES

Consumers have rights, and companies providing consumer services have a legal obligation to abide by contractual agreements made with customers. Companies must also follow state and federal laws that prohibit predatory, deceptive, and unscrupulous business practices. Milberg's Consumer Services litigation group protects consumers whose rights have been violated by improperly charged fees, predatory and discriminatory lending, illegal credit reporting practices, and invasion of privacy. We also enforce consumer rights by upholding The Fair Credit Reporting Act and Telephone Consumer Protection Act.

CLASS ACTION LAWSUITS

Milberg pioneered federal class action litigation, and is recognized as a leader in defending the rights of victims of corporate and large-scale wrongdoings. We have the manpower, resources, technology, and experience necessary to provide effective representation in nationwide class action lawsuits. Our attorneys have led class actions resulting in settlements of up to billions of dollars across a variety of practice areas, including defective consumer products, pharmaceutical drugs, insurance, securities, antitrust, environmental and toxic torts, consumer protection, and breach of contract.

DANGEROUS DRUGS & DEVICES

For some patients, medication and medical devices improve their lives. For others, the drugs and equipment have questionable benefits at best, and serious, unintended side effects at worst. Taking on drug and device makers requires a law firm that can stand up to the world's largest, most powerful companies. Our defective drug lawyers have held leadership roles in many national drug and device litigations, recovering billions of dollars in compensation.

DATA BREACH, CYBERSECURITY & BIOMETRIC DATA LAWSUITS

Technology changes faster than laws regulate it. Staying ahead of legal technical issues requires a law firm that can see the full picture of innovation and apply past lessons to navigate fast-moving developments, putting consumers ahead of corporate interests. Our data breach and privacy lawyers work at the cutting edge of technology and law, creating meaningful checks and balances against technology and the companies that wield it. Cybersecurity threats continue evolving and posing new consumer risks. Milberg will be there every step of the way to protect consumer privacy and hold big companies accountable.

ENVIRONMENTAL & TOXIC TORTS LITIGATION

Litigation is key in fighting to preserve healthy ecosystems and hold environmental lawbreakers accountable. But in today's globalized world, pollutants—and polluters—are not always local. Corporations have expanded their reach and ability to cause harm. Our environmental litigation practice focuses on representing clients in mass torts, class actions, multi-district litigation, regulatory enforcement, citizen suits, and other complex environmental and toxic tort matters. The companies involved in harmful environmental practices are large, wealthy, and globally influential, but as an internationally recognized plaintiffs' firm, Milberg has the strength and resources to present clients seeking to enforce their environmental rights against well-financed corporations—wherever they operation.

FINANCE & INSURANCE LITIGATION

Big banks and public insurance firms are obligated by their corporate charters to put shareholders' interests ahead of client interests. However, that doesn't mean they can deceive clients to profit at their expense. Milberg's attorneys handle hundreds of insurance-related disputes, including first party bad faith insurance cases, business interruption cases, and hurricane insurance cases. As one of the nation's top class action law firms, we are well-positioned to pursue insurance bad faith cases on a statewide or nationwide basis.

PUBLIC CLIENT REPRESENTATION

The ability of governments to serve and protect their residents is often threatened by the combination of lower revenues and rising costs. Budget shortfalls are increasing in part because private companies externalize costs, but while corporate profits grow, public interest pays the price. Effectuating meaningful change through litigation, Milberg partners with state and local governments to address the harms facing its residents. Internationally, Milberg's Public Client Practice has achieved success against global powerhouse corporations, including drug, tobacco, mining, and oil and gas companies.

SECURITIES LITIGATION

Over 50 years ago, Milberg pioneered litigation claims involving investment products, securities, and the banking industry by using class action lawsuits. Our litigation set the standard for case theories, organization, discovery, methods of settlement, and amounts recovered for clients. Milberg continues to aggressively pursue these cases on behalf of institutional and individual investors harmed by financial wrongdoing. Inventors of securities class actions, Milberg has decades of experience holding companies accountable both in the United States and globally.

WHISTLEBLOWER & QUI TAM

Blowing the whistle on illegal or unethical conducted is a form of legally protected speech. Milberg's whistleblower attorneys have led actions that returned hundreds of millions of dollars in ill-gotten gains, resulting in significant awards of our clients. Our legacy of standing up to corporate power extends to advocating for greater transparency. In addition to representing whistleblowers, we fight back against corporate-backed laws seeking to deter them from making disclosures.

“Scoring impressive victories against companies guilty of outrageous behavior.”

- FORBES

“A powerhouse that compelled miscreant and recalcitrant businesses to pay billions of dollars to aggrieved shareholders and customers.”

- NEW YORK TIMES

LEADERSHIP ROLES

In re: Google Play Consumer Antitrust Litigation, 20-CV-05761 (N.D. Cal.)
In re: Elmiron (Pentosan Polysulfate Sodium) Products Liability Litigation MDL No. 2973
In re: Johnson & Johnson Talcum Powder Products Marketing, Sales Practices & Products Liability Litigation
In re: Blackbaud Data Privacy MDL No. 2972
In re: Paragard IUD Products Liability Litigation MDL No. 2974
In re: Seresto Flea & Tick Collar, Marketing Sales Practices & Product Liability Litigation MDL No. 3009
In re: All-Clad Metalcrafters, LLC, Cookware Marketing and Sales Practices Litigation
In re: Allergan Biocell Textured Breast Implant Product Liability Litigation

In re: Zicam
In re: Guidant Corp. Implantable Defibrillators
In re: Ortho Evra
In re: Yaz
In re: Kugel Mesh
In re: Medtronic Sprint Fidelis Leads
In re: Stand 'N Seal
In re: Chantix
In re: Fosamax
In re: Olmesartan (Benicar)
In re: Onglyza (Saxagliptin) And Kombiglyze XR
In re: Risperdal and Invega Product Liability Cases

In re: Mirena
In re: Incretin
In re: Reglan
In re: Levaquin Litigation
In re: Zimmer Nexgen Knee
In re: Fresenius Granuflo
In re: Propecia
In re: Transvaginal Mesh
In re: Fluoroquinolones
In re: Depuy Pinnacle
In re: Recalled Abbott Baby Formula

NOTABLE RECOVERIES

\$3.2 Billion Settlement - In re: Tyco International Ltd., Securities Litigation, MDL 1335 (D.N.H.)
\$4 Billion Settlement - In re: Prudential Insurance Co. Sales Practice Litigation, No. 95-4704 (D.N.J.)
\$1.14 Billion Settlement - In Re: Nortel Networks Corp. Securities Litigation, No. 01-1855 (S.D.N.Y.)
\$1 Billion-plus Trial Verdict - Vivendi Universal, S.A. Securities Litigation
\$1 Billion Settlement - NASDAQ Market-Makers Antitrust Litigation
\$1 Billion Settlement - W.R. Grace & Co.
\$1 Billion-plus Settlement - Merck & Co., Inc. Securities Litigation
\$775 Million Settlement - Washington Public Power Supply System Securities Litigation

LOCATIONS

CALIFORNIA

280 South Beverly Drive, Penthouse
Beverly Hills, California 90212

402 West Broadway, Suite 1760
San Diego, California 92101

FLORIDA

2701 South Le Jeune Road
Coral Gables, Florida 33134

ILLINOIS

227 W. Monroe Street, Suite 2100
Chicago, Illinois 60606

KENTUCKY

19 North Main Street
Madisonville, Kentucky 42431

LOUISIANA

5301 Canal Boulevard
New Orleans, Louisiana 70124

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6905 Telegraph Road, Suite 115
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1 Bridge Plaza North, Suite 275
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100 Garden City Plaza,
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New York 11530

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NORTH CAROLINA

900 West Morgan Street
Raleigh, North Carolina 27603

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825 Lowcountry Blvd, Suite 101
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TENNESSEE

800 S. Gay Street, Suite 1100
Knoxville, Tennessee 37929

518 Monroe Street
Nashville, Tennessee 37208

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1311 Avenida Juan Ponce de León
San Juan, Puerto Rico 00907

WASHINGTON

1420 Fifth Ave, Suite 2200
Seattle, Washington 98101

17410 133rd Avenue, Suite 301
Woodinville, Washington 98072

WASHINGTON, D.C.

5335 Wisconsin Avenue NW, Suite 440
Washington, D.C. 20015-2052

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EXHIBIT B



MARKOVITS, STOCK & DeMARCO, LLC

Markovits, Stock & DeMarco, LLC is a boutique law firm whose attorneys have successfully represented clients in some of the largest and most complex legal matters in U.S. history. Our deep and varied experience extends from representing businesses, public pension funds, and individuals in federal and state courts across the nation, to successfully arguing appeals at the highest levels of the legal system – including prevailing before the United States Supreme Court. This broad-based litigation and trial expertise, coupled with no overstaffing and overbilling that can typify complex litigation, sets us apart as a law firm. But expertise is only part of the equation.

“Legal success comes only from recognizing a client’s goals and being able to design and effectively execute strategies that accomplish those goals. We understand that every client is different, which is why we spend so much time learning what makes them tick.”

As the business world becomes increasingly complex, you need to be able to trust your law firm to help you make the right decisions. Whether you seek counsel in resolving a current conflict, avoiding a future conflict, or navigating the sometimes choppy state and local government regulatory waters, the lawyers at Markovits, Stock & DeMarco have both the experience and track record to meet your legal needs.

BILL MARKOVITS

Bill Markovits practices in the area of complex civil litigation, with an emphasis on securities, antitrust, RICO, and False Claims Act cases. Bill began his career as a trial lawyer at the U.S. Department of Justice Antitrust Division in Washington, D.C. He continued to focus on antitrust after moving to Cincinnati, where he became an adjunct professor of antitrust law at the University of Cincinnati Law School. Bill has been involved in the past in a number of notable cases, including: the Choice Care securities, antitrust and RICO class action in which the jury awarded over \$100 million to a class of physicians; a fraud/RICO case on behalf of The Procter & Gamble Company, which resulted in a settlement of \$165 million; an eleven year antitrust and RICO class action against Humana, including appeals that reached the United States Supreme Court, which culminated in a multi-million dollar settlement; and a national class action against Microsoft, in which he was chosen from among dozens of plaintiffs' attorneys to depose Bill Gates. More recently, Bill was a lead counsel for plaintiffs in the Fannie Mae Securities Litigation that settled for \$153 million; a lead counsel for plaintiffs in a class action against Duke Energy that settled for \$80.75 million; and lead counsel for plaintiff in *Collins v. Eastman Kodak*, where he successfully obtained a preliminary injunction against Kodak on an antitrust tying claim. Based upon the result in *Collins*, Bill was a 2015 finalist in the American Antitrust Institute's Antitrust Enforcement Awards under the category "Outstanding Antitrust Litigation Achievement in Private Law Practice."

Bill has received a number of awards and designations, including current and past designations as a "Best Lawyer in America" in the fields of antitrust and commercial litigation.

Education:

Harvard Law School, J.D. (1981), cum laude

Washington University, A.B. (1978), Phi Beta Kappa

Significant and Representative Cases:

- *Collins v. Eastman Kodak*, United States District Court, Southern District of Ohio. Lead counsel representing Collins in antitrust tying claim, resulting in preliminary injunction against Kodak.
- *In Re Federal National Mortgage Association Securities, Derivative, and "ERISA" Litigation*, United States District Court, District of Columbia. Co-lead counsel representing Ohio pension funds in securities class action that settled for \$153 million.
- *Ohio Employees Retirement System v. Federal Home Loan Mortgage, aka Freddie Mac, et al.*, United States District Court, Northern District of Ohio, Eastern Division. Special counsel representing Ohio pension fund in securities class action.
- *Williams v. Duke Energy et al.*, United States District Court, Southern District of Ohio. Representing class of energy consumers against energy provider in complex antitrust and RICO class action that settled for \$80.75 million.
- *In Re Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation*, United States District Court, Central District of California. Former member of economic loss lead counsel committee, representing class of consumers in litigation relating to sudden acceleration.
- *In Re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010*, United States District Court, Eastern District of Louisiana. RICO workgroup coordinator in class action resulting from oil spill.
- *In Re Microsoft Corp. Litigation*, United States District Court, District of Maryland. Member of co-lead counsel firm in antitrust class action.
- *Procter & Gamble v. Amway Litigation*, United States District Court, Southern District of Texas, at

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Houston; United States District Court, District of Utah, at Salt Lake City. Member of trial team representing Procter & Gamble in obtaining jury verdict against Amway distributors relating to spreading of false business rumors.

- *United States ex rel. Brooks v. Pineville Hospital*, United States District Court, Eastern District of Kentucky. One of the lead counsel in successful False Claims Act litigation.
- *Procter & Gamble v. Bankers' Trust Litigation*, United States District Court, Southern District of Ohio. Co-counsel in successful \$165 million settlement; developed the RICO case.
- *United States ex rel. Watt v. Fluor Daniel*, United States District Court, Southern District of Ohio. Co-lead counsel of successful False Claims Act case.
- *Forsyth v. Humana*, United States District Court, District of Nevada. Represented class of consumers in antitrust and RICO class action; successfully argued antitrust appeal; co-chaired successful Supreme Court appeal on RICO.
- *In Re Choice Care Litigation*, United States District Court, Southern District of Ohio, Western Division. Trial attorney on largest antitrust/RICO/securities verdict.

Presentations & Publications:

- "Implications of Sixth Circuit *Collins Inkjet Corp. v. Eastman Kodak Co. Decision*," American Bar Association panel discussion, December 10, 2015
- "Defining the Relevant Market in Antitrust Litigation," Great Lakes Antitrust Seminar, October 29, 2010
- "Beyond Compensatory Damages – Tread, RICO and The Criminal Law Implications," HarrisMartin's Toyota Recall Litigation Conference, Part II, May 12, 2010
- "The Racketeer Influenced and Corrupt Organizations Act (RICO)," HarrisMartin's Toyota Recall Litigation Conference, March 24, 2010
- "The False Claims Act: Are Healthcare Providers at Risk?," presentation to Robert Morris College Second Annual Health Services Conferences, Integrating Health Services: Building a Bridge to the 21st Century, Moon Township, PA, October 9, 1997
- "The Federal False Claims Act: Are Health Care Providers at Risk?," (Co-Speaker), Ohio Hospital Association, April, 1996
- "A Focus on Reality in Antitrust," Federal Bar News & Journal, Nov/Dec 1992
- "Using Civil Rico and Avoiding its Abuse," Ohio Trial, William H. Blessing, co-author, Summer 1992
- "Antitrust in the Health Care Field," a chapter published in *Legal Aspects of Anesthesia*, 2nd ed., William H. L. Dornette, J.D., M.D., editor
- *Antitrust Law Update, National Health Lawyers Health Law Update and Annual Meeting (Featured Speaker)*, San Francisco, California, 1989

Affiliations:

- American Association for Justice
- American Bar Association
- American Trial Lawyers Association
- Cincinnati Bar Association
- District of Columbia Bar Association (non-active)
- Hamilton County Trial Lawyers Association
- National Health Lawyers Association
- Ohio State Bar Association
- Ohio Trial Lawyers Association

Courts Admitted:

- District of Columbia (1981)
- State of Ohio (1983)
- United States District Court, Southern District of Ohio (1983)
- U.S. Court of Appeals, 6th Circuit (1991)
- U.S. Court of Appeals, 9th Circuit (1995)
- U.S. Supreme Court, United States of America (1998)
- United States District Court, Northern District of Ohio (2008)

PAUL M. DEMARCO

Paul M. De Marco is a founding member of Markovits, Stock & DeMarco, LLC. He is an Appellate Law Specialist certified by the Ohio State Bar Association and has handled more than 100 appellate matters, including cases before the Supreme Court of the United States, six federal circuits, and five state supreme courts.

Paul's practice also focuses on class actions and other complex litigation. During his 25 years in Cincinnati, Paul has been actively involved in successful litigation related to the U.S. Department of Energy's Fernald nuclear weapons plant, the Lucasville (Ohio) prison riot, Lloyd's of London, defective Bjork-Shiley heart valves, Holocaust-related claims against Swiss and Austrian banks, the Bankers Trust derivative scheme, Cincinnati's Aronoff Center, the San Juan DuPont Plaza Hotel fire, the Procter & Gamble Satanism rumor, the Hamilton County (Ohio) Morgue photograph scandal, defective childhood vaccines, claims arising from tire delamination and vehicle roll-over, racial hostility claims against one of the nation's largest bottlers, fiduciary breach claims against the nation's largest pharmacy benefits manager, and claims arising from the heatstroke death of NFL lineman Korey Stringer.

Education:

College of Wooster (B.A., 1981)

University of the Pacific, McGeorge School of Law (J.D. with distinction, 1983)

University of Cambridge (1985)

Significant and Representative Appeals:

- *Arthur Anderson LLP v. Carlisle*, 556 U.S. 624, 129 S.Ct. 1896 (2009): In a case involving allegations of a fraudulent tax shelter and accounting and legal malpractice, the Supreme Court of the United States resolved the issue of the rights of non-parties to arbitration clauses to enforce them against parties, which had divided the circuits.
- *Williams v. Duke Energy International, Inc.*, 681 F.3d 788 (6th Cir. 2012): In a case brought as a class action by a utility's ratepayers for selective payment of illegal rebates to certain ratepayers, the United States Court of Appeals for the Sixth Circuit reversed a district court's dismissal of the excluded ratepayers' claims that the utility violated the RICO statute, the Robinson-Patman Act, and the state corrupt practices act.
- *State of Ohio ex rel. Bd. of State Teachers Retirement Sys. of Ohio v. Davis*, 113 Ohio St.3d 410, 865 N.E.2d 1289 (2007): The Supreme Court of Ohio upheld the appellate court's issuance of the extremely rare writ of procedendo commanding the trial judge to proceed with a trial on claims he mistakenly believed the previous jury had resolved.
- *Chesher v. Neyer*, 477 F.3d 784 (6th Cir. 2007): The Sixth Circuit affirmed the district court's rejection of qualified immunity defenses raised by the Hamilton County (Ohio) coroner, his chief deputy, the coroner's administrative aide, a staff pathologist, and a pathology fellow in connection with the Hamilton County Morgue photo scandal.
- *State of Ohio ex rel. CNG Fin'l Corp. v. Nadel*, 111 Ohio St.3d 149, 855 N.E.2d 473 (2006): The Supreme Court of Ohio affirmed the appellate court's refusal to issue a writ of procedendo commanding the trial judge to halt injunctive proceedings and decide an arbitration issue.
- *Smith v. North American Stainless, L.P.*, 158 F. App'x. 699 (6th Cir. 2006): Rejecting a steel manufacturer's "up-the-ladder" immunity defense, the United States Court of Appeals for the Sixth Circuit reversed the district court's dismissal of a wrongful claim brought by the widow and estate of a steel worker killed on the job.
- *Procter & Gamble Co. v. Haugen*, 427 F.3d 727 (10th Cir. 2005): The United States Court of Appeals for the Tenth Circuit reversed the district court's dismissal of Procter & Gamble's Lanham Act claims, paving the way for a \$19.25 million jury verdict in its favor.

- *Roetenberger v. Christ Hospital*, 163 Ohio App.3d 555, 839 N.E.2d 441 (2005): In this medical malpractice action for wrongful death, the Ohio court of appeals reversed the jury verdict in the physician's favor due to improper arguments by his attorney and instructional error by the trial court.
- *City of Cincinnati v. Beretta U.S.A. Corp.*, 95 Ohio St.3d 416, 768 N.E.2d 1136 (2002): In this landmark decision on public nuisance law, the Supreme Court of Ohio held that a public nuisance action could be maintained for injuries caused by a product — in this case, guns — if the design, manufacture, marketing, or sale of the product unreasonably interferes with a right common to the general public.
- *Norgard v. Brush Wellman, Inc.*, 95 Ohio St.3d 165, 766 N.E.2d 977 (2002): In an employee's intentional tort action alleging that his employer subjected him to long-term beryllium exposure, the Supreme Court of Ohio ruled that a cause of action for an employer intentional tort accrues when the employee discovers, or by the exercise of reasonable diligence should have discovered, the workplace injury and — here's the ground-breaking part of the holding — the wrongful conduct of the employer.
- *Wallace v. Ohio Dep't of Commerce*, 96 Ohio St.3d 266, 773 N.E.2d 1018 (2002): In overturning the dismissal of a suit against the state fire marshal for negligently inspecting a fireworks store that caught fire killing nine people, the Supreme Court of Ohio held for the first time that the common-law public-duty rule cannot be applied in cases against the state in the Ohio Court of Claims.

Courts Admitted:

- Ohio
- California
- Supreme Court of the United States
- U.S. Court of Appeals, 1st Circuit
- U.S. Court of Appeals, 4th Circuit
- U.S. Court of Appeals, 5th Circuit
- U.S. Court of Appeals, 6th Circuit
- U.S. Court of Appeals, 7th Circuit
- U.S. Court of Appeals, 9th Circuit
- U.S. Court of Appeals, 10th Circuit
- U.S. District Court, Southern District of Ohio
- U.S. District Court, Northern District of Ohio
- U.S. District Court, Eastern District of California
- U.S. District Court, Central District of California
- U.S. District Court, Southern District of California
- U.S. Court of Federal Claims

Since 1994, Paul has worked to promote professional responsibility among lawyers, serving first as a member and eventually the chair of the Cincinnati Bar Association Certified Grievance Committee, and since 2008 as a member of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio.

He also is a member of many legal organizations, including the Federal Bar Association, Ohio State Bar Association, Cincinnati Bar Association, American Bar Association, ABA Council of Appellate Lawyers, and the Cincinnati Bar Association's Court of Appeals Committee.

Paul was one of the founders of the Collaborative Law Center in Cincinnati, a member of Cincinnati's Citizens Police Review Panel (1999-2002), and a member of Cincinnati CAN and its Police and Community Subcommittee following the 2001 riots.

He currently serves on the boards of the Ohio Justice and Policy Center and the Mercantile Library and on the advisory committees of the Fernald Community Cohort and the Fernald Workers' Medical Monitoring Program.

TERENCE R. COATES

Terry Coates is Markovits, Stock & DeMarco's managing partner. His legal practice focuses on personal injury law, sports & entertainment law, business litigation and class action litigation. Mr. Coates is currently participating as a member of plaintiffs' counsel in the over 75 data breach cases pending around the country, including serving as co-lead counsel for plaintiff in *Migliaccio v. Parker Hannifin Corp.*, No. 1:22-CV-00835 (N.D. Ohio) (Class Counsel for \$1.75 million data breach class action settlement); *Lutz v. Electromed, Inc.*, No. 0:21-cv-02198 (D. Minn.) (Class Counsel for \$825,000 data breach class action settlement); *Abrams v. Savannah College of Art & Design*, No. 1:22-CV-04297 (N.D. Ga.) (Class Counsel for data breach class action settlement); *John v. Advocate Aurora Health, Inc.*, No. 22-CV-1253-JPS (E.D. Wis.) (Class Counsel in \$12,225,000 data privacy class action settlement); *In re Cerebral, Inc. Privacy Practices*, No. 2:23-cv-1803 (C.D. Cal.) (interim co-lead class counsel in a data privacy class action); *In re U.S. Vision Data Breach Litigation*, No. 22-cv-06558 (D. N.J.) (court-appointed interim co-lead class counsel for plaintiffs); *Tucker v. Marietta Area Health Care, Inc.*, No. 2:22-cv-00185 (S.D. Ohio) (Class Counsel for \$1.75 million common fund settlement); *Vansickle v. C.R. England*, No. 22-cv-00374 (D. Utah) (Class Counsel in data breach class action settlement in principle); *Tucker v. Marietta Area Health Care, Inc.*, No. 2:22-cv-00185 (S.D. Ohio) (Class Counsel for \$1.75 million common fund settlement); *Sherwood v. Horizon Actuarial Services, LLC*, No. 1:22-cv-1495 (N.D. Ga.) (class counsel in data breach class action settlement in principle); *Tracy v. Elekta, Inc.*, No. 1:21-cv-02851-SDG (N.D. Ga.) (court-appointed interim class counsel); *Rodriguez v. Professional Finance Company, Inc.*, No. 1:22-cv-1679 (D. Colo.) (same).

Education:

Thomas M. Cooley Law School, J.D. (2009)

Wittenberg University, B.A. (2005)

Representative Cases:

- *Bechtel v. Fitness Equipment Services, LLC*, No. 1:19-cv-726-KLL (S.D. Ohio) (\$3.65 million common fund settlement finally approved on September 20, 2022);
- *Bowling v. Pfizer, Inc.*, No. C-1-95-256 (S.D. Ohio) (Class Counsel for recipients of defective mechanical heart valves including continued international distribution of settlement funds to remaining class members);
- *Collins Inkjet Corp. v. Eastman Kodak Company*, No. 1:13-cv-0664 (S.D. Ohio) (trial counsel for Collins in an antitrust tying claim resulting in a preliminary injunction against Kodak – a decision that was affirmed by the Sixth Circuit Court of Appeals: *Collins Inkjet Corp. v. Eastman Kodak Co.*, 781 F.3d 264 (6th Cir. 2015));
- *Day v. NLO, Inc.*, Case No. C-1-90-67 (S.D. Ohio) (Class Counsel for certain former workers at the Fernald Nuclear weapons facility; the medical monitoring program continues);
- *In re Fannie Mae Securities Litigation*, Case No. 1:04-cv-1639 (D.D.C.) (represented Ohio public pension funds as Lead Plaintiffs in Section 10b securities class action litigation resulting in a \$153 million court-approved settlement);
- *In re Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, & Products Liability Litigation*, MDL No. 2151 (C.D. Cal.) (represented plaintiffs and prepared class representatives for deposition testimony resulting in a court-approved settlement valued in excess of \$1.5 billion);
- *In re NCAA Student-Athlete Name & Likeness Licensing Litigation*, Case No. 09-1967 (N.D. Cal.) (represented NCAA, Olympic, and NBA legend, Oscar Robertson, in antitrust claims against the National Collegiate Athletic Association (NCAA), Collegiate Licensing Company (CLC), and Electronic Arts (EA) leading to a \$40 million settlement with EA and CLC and the Court issuing a permanent injunction against the NCAA for unreasonably restraining trade in violation of antitrust law);
- *Linneman v. Vita-Mix Corp.*, No. 14-cv-748, (S.D. Ohio) (Class Counsel for a nationwide class of Vita-Mix blender consumers resulting in a nationwide settlement);

- *Ryder v. Wells Fargo Bank, N.A.*, No. 1:2019-cv-00638 (S.D. Ohio) (member of class counsel in a \$12 million settlement on behalf of roughly 1,830 class members);
- *Shy v. Navistar International Corp.*, No. 92-cv-0333-WHR (S.D. Ohio) (class counsel for a class action settlement valued at over \$742 million);
- *Walker v. Nautilus, Inc.*, No. 2:20-cv-3414-EAS (S.D. Ohio) (\$4.25 million common fund settlement; and,
- *Williams v. Duke Energy*, No. 1:08-cv-00046 (S.D. Ohio) (representing class of energy consumers against energy provider in complex antitrust and RICO class action resulting in the court granting final approval of an \$80.875 million settlement).

Community Involvement:

- Cincinnati Academy of Leadership for Lawyers (CALL), Class XXI, *Participant* (2017)
- Cincinnati Chamber of Commerce C-Change Class 9, *Participant* (2014)
- Cincinnati Chamber of Commerce, *Ambassador* (2014)
- Cincinnati Athletic Club, *President* (2015-2017)
- Cincinnati Athletic Club, *Vice President* (2014-2015)
- Cincinnati Bar Association, Board of Trustees, *Trustee* (2019-present)
- Cincinnati Bar Association, Board of Trustees, *Executive Committee* (2021-present)
- Cincinnati Bar Association, Board of Trustees, *Secretary* (2023-present)
- Cincinnati Bar Association, *Membership Services & Development Committee* (2014-present)
- Cincinnati Bar Association, *Run for Kids Committee* (2009-2014)
- Cincinnati Bar Association, *Social Committee* (2011-2014)
- Clermont County Humane Society, *Board Member* (2014-2017)
- Clermont County Humane Society, *Legal Adviser* (2017-present)
- Potter Stewart Inn of Court, *Executive Director* (2021-present)
- Summit Country Day High School, *Mock Trial Adviser* (2013-2016)
- St. Peter in Chains, Cathedral, Parish Council (2014-2017)

Recognitions:

- Super Lawyers, Rising Star (2014 – 2022)
- Super Lawyers, Super Lawyer (2022-present)
- Best Lawyers in America, Commercial Litigation (2020-present)
- Wittenberg University Outstanding Young Alumnus Award (2014)
- Cincinnati Bar Association, Young Lawyers Section Professionalism Award (2015)
- JDRF Bourbon & Bow Tie Bash, *Young Professional (Volunteer) of the Year* for the Flying Pig Marathon (2016)
- Cincinnati Business Courier, Forty Under 40 (2019)
- Cincinnati Cystic Fibrosis Foundation, Cincinnati's Finest Honoree (2020)

Courts Admitted:

- State of Ohio (2009)
- United States District Court, Southern District of Ohio (2010)
- United States District Court, Northern District of Ohio (2010)
- United States District Court, Eastern District of Michigan (2021)
- United States District Court, District of Colorado (2022)
- United States District Court, Eastern District of Wisconsin (2022)
- United States District Court, Western District of Michigan (2023)
- United States District Court, District of Nebraska (2023)
- United States Court of Appeals, Sixth Circuit (2018)

JUSTIN C. WALKER

Justin C. Walker is Of Counsel at Markovits, Stock & DeMarco. Justin's practice areas are focused on complex civil litigation and constitutional law, with an emphasis on consumer fraud and defective products. Before joining Markovits, Stock & DeMarco in April 2019, Justin practiced at the Finney Law Firm, a boutique law firm specializing in complex litigation and constitutional law. At the beginning of his legal career, Justin served as a judicial extern for Senior United States District Judge Sandra S. Beckwith before taking a full-time position as a law clerk and magistrate in the Hamilton County Ohio Court of Common Pleas for the Honorable Norbert A. Nadel. After completing his clerkship, Justin took a position as a prosecutor, serving as first chair for multiple jury trials. Justin then entered private practice, shifting his practice to focus on litigation matters.

Education:

University of Cincinnati, J.D. (2005)

Miami University, B.S. (2001)

Courts Admitted:

- State of Ohio (2005)
- U.S. Court of Appeals, 6th Circuit (2017)
- U.S. District Court, Southern District of Ohio (2008)
- U.S. Bankruptcy Court, Southern District of Ohio (2009)

Representative Cases:

- *Linneman v. Vita-Mix Corp.*, Case No. 15-cv-748, United States District Court, Southern District of Ohio (Co-Class Counsel for a nationwide class of Vita-Mix blender consumers resulting in a nationwide settlement).
- *Baker v. City of Portsmouth*, Case No. 1:14-cv-512, 2015 WL 5822659 (S.D. Ohio Oct. 1, 2015) (Co-Counsel for a class of property owners, the Court ruled that City violated the Fourth Amendment when it required property owners to consent to a warrantless inspection of their property or face a criminal penalty where not valid exception to the warrant requirement exists).
- *E.F. Investments, LLC v. City of Covington, Kentucky*, Case No. 17-cv-00117-DLB-JGW, United States District Court, Eastern District of Kentucky (Lead Counsel on case brought on behalf of local property owners, contending that City's rental registration requirements violated the Fourth Amendment resulting in a settlement).
- *State of Ohio ex rel. Patricia Meade v. Village of Bratenahl*, 2018-04409, Supreme Court State of Ohio (Co-Counsel on behalf of local taxpayer contending that Defendant's violated Ohio Open Meetings Law).
- *Dawson v. Village of Winchester*, United States District Court, Southern District of Ohio (Lead Counsel represented Plaintiff claiming Federal Civil Rights violations due to unconstitutional arrest and detainment).

Affiliations and Presentations:

- Cincinnati Bar Association
- Clermont County Bar Association
- American Association for Justice
- "Municipal Bankruptcy: Chapter 9 – Should Cincinnati Consider Filing for Bankruptcy?"
- "Ohio CLE Introduction to Bankruptcy for Lawyers CLE"

CHRISTOPHER D. STOCK

Chris's legal practice focuses on securities class action and multi-district products liability litigation, as well as appellate advocacy. Serving as a judicial law clerk for Ohio Supreme Court Justice Terrence O'Donnell gave Chris invaluable insight into how courts synthesize and deconstruct legal arguments. Since then, Chris has briefed and argued numerous cases before the United States Court of Appeals for the Sixth Circuit, the Ohio Supreme Court, and Ohio appellate courts, including obtaining a rare summary reversal from the United States Supreme Court.

Chris also served as both Deputy First Assistant Attorney General and Deputy State Solicitor for Ohio Attorney General Jim Petro. In these positions, Chris was principal counsel to the Attorney General on a wide variety of legal and policy-oriented issues, including numerous constitutional and regulatory matters arising from state agencies, boards, and commissions. Prior to his service in state government, Chris was an attorney at a 500-lawyer nationally-recognized law firm.

He received multiple designations as an Ohio Super Lawyers "Rising Star."

Education:

The Ohio State University, Moritz College of Law, J.D. (2002)

The Ohio State University, BA (1997)

Significant Cases:

- *In re Fannie Mae Securities Litigation*, Case No. 1:04-cv-1639 (D.D.C.). Represented Ohio public pension funds as Lead Plaintiffs in Section 10b-5 securities class action litigation.
- *Ohio Public Employees Retirement System v. Freddie Mac, et al.*, Case No. 4:08-cv-160 (N.D. Ohio). Representing Ohio public pension funds as Lead Plaintiffs in Section 10b-5 securities class action litigation.
- *Williams v. Duke Energy*, Case No.: 1:08-CV-00046 (S.D. Ohio). Represented class of energy consumers against energy provider in complex antitrust and RICO class action.
- *Slaby v. Wilson*, Hamilton County Court of Common Pleas. Represented two private individuals who were falsely accused by a County Commissioner of murdering their child and covering up the child's death (as well as sexual abuse of child).
- *Kelci Stringer, et al. v. National Football League, et al.*, United States District Court, Southern District of Ohio, Western Division. Represented professional football player against NFL and helmet manufacturer in wrongful death/products liability litigation related to professional football player's death.
- *Susan B. Anthony List v. Driehaus*, United States District Court, Southern District of Ohio, Western Division. Represented former Congressman in defamation action against organization who published false statements about former Congressman's voting record and alleged influence over organization's commercial activities.
- *Mitchell v. Esparza*, Case No. 02-1369 (United States Supreme Court). Obtained summary reversal of Sixth Circuit decision on Eighth Amendment capital sentencing issue.
- *Cleveland Bar Association v. CompManagement, Inc.*, Case No. 04-0817 (Ohio Supreme Court). Represented the State of Ohio as amicus in landmark workers' compensation lawsuit.

Presentations:

- Class Action Boot Camp: The Basics and Beyond (2012).
- Harris Martin Toyota Sudden Unintended Acceleration Litigation Conference: TREAD Act Liability and Toyota (2010).
- Harris Martin BP Oil Spill Litigation Conference: The RICO Act's Application to the BP Oil Spill (2010).

Affiliations:

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- Ohio State Bar Association
- Cincinnati Bar Association

Courts Admitted:

- State of Ohio (2002)
- United States District Court, Southern District of Ohio (2003)
- Sixth Circuit Court of Appeals, Ohio (2003)
- United States District Court, Northern District of Ohio (2007)

DYLAN J. GOULD

Dylan is an associate attorney at Markovits, Stock & DeMarco. Dylan's practice primarily focuses on class action and complex civil litigation with an emphasis on cases involving consumer fraud and data privacy. He also has experience with matters related to sports & entertainment, personal injury, commercial law, civil conspiracy, and civil litigation under the RICO Act. At the University of Cincinnati College of Law, where he spent multiple semesters on the Dean's Honors List, Dylan was selected to the Trial Practice and Moot Court teams, participating in mock trial and appellate court competitions with law students across the country. Upon graduation, Dylan joined Markovits, Stock & DeMarco, where he quickly gained valuable experience in nearly every facet of the litigation process while skillfully guiding several cases to final judgment, including as a court appointed member of class counsel in multiple actions gaining final approval of class action settlement. In recognition of his achievements, Dylan was named an Ohio Super Lawyers Rising Star in 2021 and 2023. Aside from his litigation practice, Dylan is also a Certified Contract Advisor with the National Football League Players Association.

Education:

University of Cincinnati, J.D. (2018)

University of Colorado at Boulder, B.A. (2015)

Courts Admitted:

- State of Ohio (2018)
- United States District Court, Southern District of Ohio (2019)
- United States District Court, Northern District of Ohio (2022)
- United States District Court, Eastern District of Wisconsin (2022)
- United States Court of Appeals, Sixth Circuit (2023)

Representative Cases:

- *In re Advocate Aurora Health Pixel Litigation*, No. 22-CV-1253-JPS (E.D. Wis.) (court appointed member of class counsel for preliminarily approved \$12,225,000 common fund settlement in data privacy action);
- *Anderson v. Fortra LLC*, No. 0:23-cv-00533 (SRN/DTS) (D. Minn.) (court appointed member of Executive Committee Counsel in pending data breach action involving millions of victims);
- *Lutz v. Electromed, Inc.*, No. 21-cv-2198 (D. Minn.) (court appointed member of class counsel in data breach action that gained final approval of \$825,000 common fund settlement);
- *Compound Property Management LLC v. Build Realty, Inc.*, No. 1:19-CV-133, 2023 WL 2140981 (S.D. Ohio Feb. 21, 2023) (granting contested class certification of claims related to complex real estate lending scheme in civil RICO action and appointing Mr. Gould as a member of class counsel);
- *Voss v. Quicken Loans*, No. A 2002899, 2023 WL 1883124 (Feb. 8, 2023 Ohio Com.Pl.) (granting contested class certification of action under Ohio Revised Code § 5301.36 and appointing Mr. Gould as member of class counsel);

Affiliations:

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Ohio State Bar Association

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JONATHAN T. DETERS

Jon is a Cincinnati native whose legal practice is focused on complex civil litigation, class action litigation, personal injury law, and sports & entertainment law. Jon has been a litigator since the start of his career, and his clients have included individuals, businesses, local governments, and government officials. Jon's experience serving as both plaintiff and defense counsel make him uniquely qualified and well-suited to represent individual and corporate clients in litigation. Jon has been designated as an Ohio Super Lawyers "Rising Star" from 2019-present, which is a distinction awarded to less than 2.5% of Ohio attorneys under the age of 40.

Before joining Markovits, Stock & DeMarco in January 2022, Jon practiced at Schroeder, Maundrell, Barbieri & Powers, an Ohio law firm specializing in civil litigation, personal injury, and constitutional law. While in law school, Jon served as a constable in the Hamilton County Ohio Court of Common Pleas for the Honorable Steven E. Martin and worked as law clerk at the Law Office of Steven R. Adams.

Education:

Salmon P. Chase School of Law at Northern Kentucky University, J.D. (2015)

Xavier University, Cincinnati, Ohio, Honors Bachelor of Arts (2012)

Representative Cases:

- *Baker v. Carnine*, No. 1:19-CV-60 (2022), United States District Court, Southern District of Ohio
- *Jones v. Vill. of Golf Manor*, No. 1:18-CV-403 (2020), United States District Court, Southern District of Ohio
- *Vaduva v. City of Xenia*, 780 F. App'x 331 (2019), United States Court of Appeals, Sixth Circuit
- *Gillispie v. Miami Twp.*, No. 3:13-CV-416 (2017), United States District Court, Southern District of Ohio
- *City of Mt. Healthy v. Fraternal Ord. of Police, Ohio Lab. Council, Inc.*, 101 N.E.3d 1163 (2017), Ohio First District Court of Appeals

Community Involvement:

- Cincinnati Bar Association, *Member*
- Ohio Bar Association, *Member*
- Boy Hope Girls Hope of Cincinnati, *Young Professionals Board Member*
- Board of Trustees of the New St. Joseph Cemetery, Cincinnati, Ohio, *Member*

Courts Admitted:

- State of Ohio
- United States District Court, Southern District of Ohio
- United States Court of Appeals, Sixth Circuit

EXHIBIT C



CHESTNUT CAMBRONNE FIRM RESUME

For over 50 years, Chestnut Cambronne PA has been representing clients in class action litigation both in the Twin Cities area and at a national level. Since its inception, Chestnut Cambronne has been engaged in complex litigation throughout the country and has successfully both prosecuted and defended class litigation addressing substantive legal questions in the fields of data security breaches, securities, ERISA, banking, antitrust, and consumer protection law. Representative class action cases in which the firm and its members have been involved with over the past several years include:

In re Wasserstrom Holdings, Inc., Data Breach Litigation, Case No. 3:23-cv-2424 (S.D. Ohio). A pending class action against Wasserstrom Holdings, Inc., an Ohio-based restaurant supplier, alleging negligence and other claims in a data security breach. Philip J. Krzeski was appointed as Interim Co-Lead Counsel.

In re: Group Health Plan Litigation, Case No. 23-cv-00267 (D. Minn.). A pending class action against Group Health Plain, a Minnesota-based healthcare network, alleging wiretapping claims stemming from a Facebook pixel. Bryan L. Bleichner was appointed as Interim Co-Lead Counsel.

Rasmussen, et al., v. Uintah Health Care Basin, 2:23-cv-0322 (Dt. Ut.). A pending class action against healthcare network Uintah Health Care Basin, a Utah-based healthcare network, alleging negligence and other claims in a data security breach. Bryan L. Bleichner was appointed as Interim Co-Lead Counsel.

Anderson v. Fortra LLC, No. 23-cv-00533 (D. Minn.). A pending class action on behalf of a putative class of consumers against Fortra LLC, a cybersecurity vendor, alleging negligence and other claims in a data security breach. Bryan L. Bleichner was court appointed as Interim Co-Lead Counsel.

Rodriguez v. Mena Regional Hospital Commission d/b/a Mena Regional Health System, No. 2:23-cv-2002 (W.D. Ark.). A pending class action on behalf of a putative class action on behalf of medical patients against Mena Regional hospital Commission,

an Arkansas Healthcare Network alleging negligence and other claims in a data security breach. Bryan L. Bleichner was court appointed as Interim Co-Lead Counsel.

Hale v. ARcare, No. 3:22-cv-00117 (E.D. Ark.). A pending class action on behalf of a putative class of consumers against ARcare, an Arkansas healthcare network, alleging negligence and other claims in a data security breach. Bryan L. Bleichner was court appointed as Interim Co-Lead Counsel.

Hightower v. Receivables Performance Management, LLC, No. 2:22-cv-01683 (W.D. Wash.). A pending class action on behalf of a putative class of consumers against Receivables Performance Management, LLC, a Washington-based debt collection company, alleging negligence and other claims in a data security breach. Bryan L. Bleichner was court appointed as Interim Co-Lead Counsel.

Johnson v. Yuma Regional Medical Center, No. 2:22-cv-01061 (D. Ariz.). A pending class action on behalf of a putative class of consumers against Yuma Regional Medical Center, an Arizona healthcare network, and related entities alleging negligence and other claims in a data security breach. Bryan L. Bleichner was court appointed as Interim Co-Lead Counsel.

In Re: Pawn America Consumer Data Breach Litigation, No. 21-cv-2544-PJS-HB (D. Minn.). A pending class action on behalf of a putative class of consumers against Pawn America and related entities alleging negligence and other claims in a data security breach. Bryan L. Bleichner was court appointed as Interim Co-Lead Counsel.

In Re: Netgain Technology, LLC, Consumer Data Breach Litigation, No. 21-cv-1210-SRN-LIB (D. Minn.). A pending class action on behalf of a putative class of consumers against Netgain Technology alleging negligence and other claims in a data security breach. Bryan L. Bleichner was court appointed as Interim Co-Lead Counsel.

Phillips v. Bay Bridge Administrators, LLC, No. 1:23-cv-022 (W.D. Tex.). A pending class action on behalf of a putative class of consumers against an insurance administrator alleging negligence and other claims in a data security breach. Philip J. Krzeski was court appointed as Executive Committee Counsel.

Lutz v. Electromed, Inc., No. 21-cv-2198-SRN-DTS (D. Minn.). A pending class action on behalf of a putative class of consumers against Electromed alleging

negligence and other claims in a data security breach. Chestnut Cambronne is prosecuting the case with two additional plaintiffs' law firms.

Baker v. Parkmobile, LLC, No. 21-cv-2181-SCJ (N.D. Ga.). A pending class action on behalf of a putative class of consumers against Parkmobile, LLC alleging negligence and other claims in a data security breach. Bryan L. Bleichner was court appointed to the Interim Plaintiffs' Steering Committee.

DeSue v. 20/20 Eye Care Network, Inc., No. 21-cv-61275-RAR (S.D. Fla.). A pending class action on behalf of a putative class of consumers against 20/20 Eye Care Network alleging negligence and other claims in a data security breach. Bryan L. Bleichner was court appointed as Interim Co-Lead Counsel.

Garrett v. Herff Jones, LLC, No. 21-cv-01329-TWP-DLP (S.D. Ind.). A pending class action on behalf of a putative class of consumers against Herff Jones alleging negligence and other claims in a data security breach. Bryan L. Bleichner was court appointed as Interim Co-Lead Counsel.

In re EyeMed Vision Care, LLC Data Security Breach Litigation, No. 21-cv-00036-DRC (S.D. Ohio). A pending class action on behalf of a putative class of consumers against EyeMed alleging negligence and other claims in a data security breach. Bryan L. Bleichner was court appointed as Interim Co-Lead Counsel.

In re Luxottica of America, Inc. Data Security Breach Litigation, No. 20-cv-00908-MRB (S.D. Ohio). A pending class action on behalf of a putative class of consumers against Luxottica alleging negligence and other claims in a data security breach. Bryan L. Bleichner was court appointed as Interim Co-Lead Counsel.

Greenstate Credit Union v. Hy-Vee, Inc., No. 20-cv-00621-DSD-DTS (D. Minn.). A pending class action on behalf of a putative class of financial institutions against Hy-Vee alleging negligence and violations of the Minnesota Plastic Card Security Act in a data security breach. Bryan L. Bleichner currently serves as co-counsel.

Village Bank v. Caribou Coffee Company, Inc., No. 19-cv-01640-JNE-HB (D. Minn.). A recently settled class action on behalf of a putative class of financial institutions against Hy-Vee alleging negligence and violations of the Minnesota Plastic Card Security Act in a data security breach. Bryan L. Bleichner serves as court appointed settlement class counsel.

Walker v. Nautilus, Inc., No. 20-cv-3414-EAS-EPD (S.D. Ohio). A pending consumer protection class action against Nautilus, Inc. alleging Defendant materially misrepresented the horsepower produced by the electric motors in its treadmills. Chestnut Cambronne currently serves as Plaintiffs' counsel.

In re DPP Beef Litig., No. 20-cv-1319-JRT/HB (D. Minn.). A pending class action on behalf of a putative class of direct purchasers against beef product producers alleging claims of price fixing. Chestnut Cambronne serves as Plaintiffs' Counsel.

Alicia Schaeffer v. Life Time Fitness, Inc. et al., No. 27-cv-20-10513 (Minn. 2020). A pending class action on behalf of a putative class of group fitness instructors against Life Time Fitness, Inc. alleging Defendants refused to compensate Plaintiff and class members for work performed for their employer's benefit. Chestnut Cambronne currently serves as Plaintiffs' counsel.

In re WaWa, Inc. Data Security Litig., No. 19-cv-6019-GEKP (E.D. Pa.). A pending class action on behalf of a putative class of financial institutions against WaWa, Inc. alleging negligence and other claims in a data security breach. Bryan L. Bleichner serves on the Financial Institution Track Defendant Discovery and ESI Committee

Teeda Barclay v. Icon Health & Fitness, Inc., et al., No. 19-cv-02970-ECT-DTS (D. Minn.). A pending consumer protection class action against Icon Health & Fitness and NordicTrack alleging Defendants materially misrepresented the horsepower produced by the electric motors in its treadmills. Bryan L. Bleichner currently serves as Plaintiffs' counsel.

In re Resideo Technologies, Inc. Securities Litig., No. 19-cv-02863-WMW-KMM (D. Minn.). A pending shareholder class action against Resideo and its directors and officers for failing to disclose material information about its spin-off from Honeywell. Chestnut Cambronne serves as liaison counsel on this matter.

Delamarter v. Supercuts, Inc., No. 19-3158-DSD-TNL (D. Minn.). A pending class action on behalf of a putative class of consumers against Supercuts alleging violations of the Fair and Accurate Credit Transactions Act. Bryan L. Bleichner serves as Plaintiff's Counsel.

Kenneth Peterson v. JBS USA Food Company Holdings, et al., No. 19-cv-1129-JRT-HB (D. Minn.). A pending class action on behalf of a putative class of indirect

purchasers against beef product producers alleging claims of price fixing. Chestnut Cambronne served as Plaintiffs' Counsel.

In re: FedLoan Student Loan Servicing Litigation, No. 2:18-md-02833-CDJ (E.D. Pa.). A pending class action on behalf of a putative class of student loan borrowers against FedLoan Servicing / Pennsylvania Higher Education Assistance Agency alleging consumer fraud violations and other claims. Bryan L. Bleichner was court appointed to the Executive Committee.

ASEA/AFSCME Local 52 Health Benefits Trust v. St. Jude Medical, LLC, et al., No. 18-cv-02124-DSD-HB (D. Minn.). A class action on behalf of a putative class of third party health benefits payors against St. Jude Medical and Abbott Laboratories alleging product liability and other claims. Chestnut Cambronne served as Plaintiffs' Counsel.

In Re Pork Antitrust Litigation, No. 18-cv-1776-JRT-HB (D. Minn.,). A pending class action on behalf of a putative class of direct purchasers against pork product producers alleging claims of price fixing. Chestnut Cambronne currently serves as Plaintiffs' Counsel.

James Bruner, et al. v. Polaris Industries Inc. et al., No. 18-cv-00939-WMW-DTS (D. Minn.). A pending class action on behalf of a putative class of consumers against Polaris Industries alleging product liability claims. Chestnut Cambronne was court appointed as Plaintiffs' Liaison Counsel.

In re: Equifax, Inc., Customer Data Security Breach Litigation, No. 17-md-2800-TWT (N.D. Ga.). A settled class action on behalf of a putative class of financial institutions against Equifax alleging negligence and other claims in a data security breach. Bryan L. Bleichner was court appointed to the Financial Institution Plaintiffs' Steering Committee.

Marie Travis v. Navient Corp. et al., No. 17-cv-04885-JFB-GRB (E.D.N.Y.). A pending class action on behalf of a putative class of student loan borrowers against Navient Corp. alleging consumer fraud act violations and other claims. Bryan L. Bleichner serves as Plaintiffs' Counsel.

Midwest Am. Fed. Credit Union v. Arby's Rest. Grp. Inc., No. 17-cv-00514-AT (N.D. Ga.). A pending class action on behalf of a putative class of financial institutions against Arby's alleging negligence and other claims in a data security breach. Bryan L. Bleichner was appointed to the Interim Plaintiffs' Executive Committee.

Veridian Credit Union v. Eddie Bauer LLC, No. 2:17-cv-00356 (W.D. Wash.). A settled class action on behalf of a putative class of financial institutions against Eddie Bauer alleging negligence and other claims in a data security breach. Bryan L. Bleichner served as Plaintiff's counsel.

Bellwether Community Credit Union v. Chipotle Mexican Grill, Inc., No. 17-cv-1102 (D. Colo.). A settled class action on behalf of a putative class of financial institutions against Chipotle alleging negligence and other claims in a data security breach. Bryan L. Bleichner was court appointed to Chair of the Executive Committee.

First Choice Fed. Credit Union et al. v. The Wendy's Company et al., No. 2:16-cv-00506 (W.D. Pa.). An ongoing class action on behalf of a putative class of financial institutions against Wendy's alleging negligence and other claims in a data security breach. Bryan L. Bleichner was court appointed to the Executive Committee.

Gordon v. Amadeus IT Group, S.A., No. 1:15-cv-05457 (S.D.N.Y. July 14, 2015). A resolved putative class action alleging collusion and anticompetitive behavior among the companies that provide the systems used by travel agents to link to airline flight and fare information known as global distribution systems (GDS). Chestnut Cambronne served as Plaintiffs' Counsel in this litigation.

In re: Anthem, Inc. Data Breach Litigation, No. 5:15-md-02617 (LHK) (N.D. Cal. March 13, 2015). A settled class action against Anthem alleging negligence and other claims in a data security breach affecting in excess of 80 million consumers. Chestnut Cambronne served as Plaintiffs' Counsel in the litigation.

Gassoway v. Benchmark Energy Transport Services, Inc., (S.D. Tex. February 23, 2015). A certified and settled class action case alleging Benchmark Energy Transport Services deducted and withheld an undisclosed surcharge from trucking owner-operators in violation of Federal Regulations. Chestnut Cambronne served as co-lead counsel for the certified class.

In re: The Home Depot, Inc., Customer Data Security Breach Litigation, No. 1:14-md-02583 (TWT) (N.D. Ga.). This is an ongoing putative class action against The Home Depot alleging negligence and other claims in a data security breach affecting 56 million consumers and tens of thousands of financial institutions. Bryan L. Bleichner was court appointed to the Financial Institution Plaintiffs' Steering Committee.

In re: Target Corporation Customer Data Security Breach Litigation, No. 0:14-md-02522 (PAM/JJK) (D. Minn. December 26, 2013). This is a settled class action against Target Corporation alleging negligence and violations of the Minnesota Plastic Card Security Act in a data security breach affecting 70 million consumers and tens of thousands of financial institutions. Chestnut Cambronne served as Co-Lead Counsel for the Financial Institution Class and Coordinating Lead Counsel for Plaintiffs.

Christian v. National Hockey League, No. 0:14-md-02551 (SRN/JSM) (D. Minn. April 15, 2014) This is a settled putative class action against the National Hockey League (NHL) alleging that the NHL ignored the known risks of concussive injuries and failed to safeguard its players. Chestnut Cambronne was court appointed to the Plaintiffs' Executive Committee.

Puerta v. Tile Shop Holdings, Inc., No. 0:14-cv-00786 (ADM/TNL) (D. Minn. March 21, 2014). A settled shareholder class action against Tile Shop Holdings and its directors and officers for failing to disclose material information about a supplier relationship. Chestnut Cambronne served as liaison counsel on this matter.

In re: Domestic Drywall Antitrust Litig., No. 2:13-md-2437; 939 F. Supp. 2d 1371 (E.D. Pa. 2013). This is an ongoing antitrust putative class action against domestic manufacturers of drywall alleging price-fixing. Chestnut Cambronne is acting as plaintiffs' counsel in this matter.

Lucas v. SCANA Energy Marketing, Inc., No. 1:12-cv-02356 (SCJ) (N.D. Ga. Feb. 8, 2013). A settled consumer protection class action in which Chestnut Cambronne served as co-lead counsel.

In re: Imprelis Herbicide Mktg., Sales Practices and Products Liability Litig., No. 2:11-md-02284 (GP) (E.D. Pa. Oct. 20, 2011). This is a settled products liability class action against the manufacturer of Imprelis Herbicide, DuPont. The class has recovered over \$378 million to date.

Minneapolis Firefighters' Relief Ass'n v. Medtronic, Inc., No. 08-6324 (PAM/AJB) (D. Minn. 2009); 618 F. Supp. 1016 (D. Minn. 2009); 278 F.R.D. 454 (D. Minn. 2011). This is a settled securities fraud class action in which Chestnut Cambronne was lead and liaison counsel. The class recovered \$80 million.

In re: American Express Anti-Steering Rules Antitrust Litig. (No. II), MDL No. 2221, 764 F. Supp. 2d 1343 (E.D.N.Y. 2010). This is a settled class action alleging that Defendant American Express' policies prohibiting merchants from offering customers incentives to use a particular card or type of payment violated antitrust laws. The case is currently under appellate review before the United States Court of Appeals for the Second Circuit.

Mooney v. Allianz Life Ins. Co. of North America, No. 06-545 (ADM/FLN); 2010 WL 419962 (D. Minn. Jan. 29, 2010). This was a certified class action in which Chestnut Cambronne was co-lead counsel seeking damages of \$2 billion. After a three-week trial, the jury concluded Allianz made false and misleading statements intentionally in violation of the statute, but did not award damages.

In re United Healthcare, Inc. Shareholder Derivative Litig., 631 F.3d 913 (8th Cir. 2011), *affirming* 631 F. Supp. 2d 1151 (D. Minn. 2009). This is a settled shareholder derivative case involving the backdating of stock options. Chestnut Cambronne served as lead counsel and recovered on behalf of the company a settlement valued at \$922 million. Today, it remains the largest recovery in a shareholder derivative case in United States history.

San Francisco Health Plan v. McKesson Corp., No. 1:08-cv-10843 (D. Mass. May 20, 2008). A settled RICO and Clayton Act class action challenging the pricing of pharmaceutical drugs. The class recovered \$82 million. Chestnut Cambronne represented Plaintiff Anoka County.

In re MoneyGram Int'l, Inc. Securities Litig., No. 08-cv-883 (DSD/JJG) (D. Minn. July 22, 2008); 626 F. Supp. 2d 947 (D. Minn. 2009). This is a settled securities fraud class action in which Chestnut Cambronne was co-lead counsel and recovered \$80 million for the class.

Avritt v. Reliastar Life Ins. Co., No. 0:07-cv-01817 (JNE/JJG) (D. Minn. April 9, 2007). This is a settled class action that alleged Defendant defrauded consumers in the sale of its Fixed Annuities. Chestnut Cambronne served as local counsel and recovered \$31 million for the class.

In re: Air Cargo Shipping Services Antitrust Litig., No. 1:06-md-01775 (JG/VVP) (E.D.N.Y. June 27, 2006). This is a partially settled class action alleging a price-fixing conspiracy by dozens of international air cargo carriers. To date over \$500 million has been recovered for the class.

In re: Payment Card Interchange Fee and Merchant Discount Antitrust Litig., MDL No. 1720, 398 F. Supp. 2d 1356 (E.D.N.Y. 2005). A settled class action alleging that the rules Defendants Visa and MasterCard impose upon merchants violate antitrust laws. The case is currently on appeal before the United States Court of Appeals for the Second Circuit. The current settlement value is in excess of \$7.25 billion.

In re Xcel Energy, Inc. Sec, Derivative & "ERISA" Litig, 364 F. Supp. 980, 995-996 (D. Minn. 2005); *In re Xcel Energy Securities, Derivative & "ERISA" Litigation*, 286 F. Supp. 2d 1047 (D. Minn. 2003). This was a securities fraud class action in which Chestnut Cambronne was co-lead counsel. The class recovered \$80 million.

Cooper v. Miller, Johnson, Steichen & Kinnard, No. 0:02-cv-01236 (RHK/AJB) (D. Minn. June 5, 2002) This is a settled securities fraud class action in which Chestnut Cambronne served as lead counsel. The class recovered \$5.6 million.

In Re E.W. Blanch Holdings, Inc. Securities Litig., No. 0:01-cv-00258 (JNE/JGL) (D. Minn. Feb. 12, 2001) This is a settled securities fraud class action in which Chestnut Cambronne served as lead counsel. The class recovered \$20 million.

In re Blue Cross Subscriber Litig., No. 19-C3-98-7780 (Minn. Dist. Ct. 1st Dist.) This was a consumer protection class action on behalf of Blue Cross subscribers. Over \$41 million was recovered for Blue Cross policy holders. Chestnut Cambronne served as lead counsel.

Alford v. Mego Mortgage Home Loan Owner Trust 1997-1; Mazur v. Empire Funding Home Loan Owner Trust 1997-1; and Banks, et al. v. FirstPlus Home Loan Trust 1996-2 (Minn. Dist. Ct. 4th Dist.). These are settled consumer-lending cases in which Chestnut Cambronne acted as co-lead counsel.

Chestnut Cambronne also has experience successfully defending class litigation.

See, e.g., In re K-Tel, 300 F.3d 881 (8th Cir. 2002); *Wylde v. Champps of New Brighton*, No. 10-cv-4953 (ADM/JJK) (D. Minn. 2011); *Johnson v. BP America, Inc.* No. 12-cv-00417 (RHK/JSM) (D. Minn. 2012).

Not only do the results obtained in the above cases attest to the skill and competence of Chestnut Cambronne lawyers in shareholder litigation, various courts have publicly commended Chestnut Cambronne for its efforts:

Plaintiffs' co-lead counsel have significant experience in representing shareholders and shareholder classes in federal securities actions around the country and in this district in particular. Counsel-both the lawyers representing lead plaintiffs and defendants-conducted themselves in an exemplary manner. ... Thus, the effort of counsel in efficiently bringing this case to fair, reasonable and adequate resolution is the best indicator of the experience and ability of the attorneys involved, and this factor supports the court's award of 25%.

In re Xcel Energy, Inc. Sec, Derivative & "ERISA" Litig, 364 F. Supp. 980, 995 (D. Minn. 2005).

EXHIBIT D



Arnold Law Firm Biography

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Founded in 1975 by Clayeo C. Arnold, the Arnold Law Firm is a litigation-oriented practice in Sacramento and Woodland Hills, California. In keeping with its founding principles, our firm consciously works for the interests of individual people and small businesses — not for large corporations or insurance companies.

The Arnold Law Firm prosecutes class action, mass tort, *qui tam*, product defect, employment, and personal injury cases. We pride ourselves on being a practice of trial lawyers, typically trying a minimum of ten cases per year to verdict. In addition to our practice throughout the state of California in both state and federal courts, we pursue class action, *qui tam* and multi-district litigation claims on a nationwide basis.

Our team of eleven attorneys collectively encompass a broad, diverse professional background, including plaintiff contingency work, public entity representation, criminal defense, and civil defense. We have current and past board members of Capital City Trial Lawyers Association, as well as members of numerous prestigious professional organizations, including the American Board of Trial Advocates, American Association for Justice, Association of Trial Lawyers of America, and Consumer Attorneys of California.

Our firm's operating structure is based on teams directed towards specific practice areas. These teams regularly and intentionally collaborate and exchange information between their practice areas to improve the quality of representation for all of our clients.



Arnold Law Firm Biography

(continued)

Over four decades the Arnold Law Firm has developed a respected and extensive network of co-counsel and experienced contract counsel to rapidly expand our capabilities as necessary on an *ad hoc* basis (e.g., document review). We employ a robust staff of highly qualified, experienced assistants and paralegals to ensure that attorney time is spent in the most efficient manner possible.

The Arnold Law Firm employs technology to increase productivity, resulting in lower hourly billing, even though adverse parties eventually pay those bills. The firm increases efficiencies by using template software, client management software, and secure internet-based client management for mass tort or multi-plaintiff litigation. We also invest in appropriate billing and tracking software for contemporaneous hourly record keeping.

The Arnold Law Firm places substantial value on representing clients in a manner that is both effective and courteous. Integrity with clients, the courts, and adverse counsel are all considered to be as indispensable as successful results.

Our highly accomplished counsel has a long history of successfully handling class actions across a range of industries, including data breach cases.



Gregory Haroutunian Biography



The Arnold Law Firm has a proven track record of success and the ability to work efficiently and cooperatively with others. In addition, our firm has the availability and resources necessary to litigate complex class actions.

Gregory Haroutunian

Gregory Haroutunian is a principal member of the data breach complex litigation and *qui tam* practices for the Arnold Law Firm. He brings substantial experience in complex litigation matters with a history of litigating in an efficient and practical manner

Mr. Haroutunian has an extensive background in complex litigation, privacy and consumer/government fraud litigation, actively participating in a currently sealed False Claims Act case involving widespread cybersecurity fraud upon the United States, and the class action litigations filed in federal courts across the nation, set out below.

Before joining the Arnold Law Firm in 2021, Mr. Haroutunian worked in diverse practices across the nation including litigating dozens of products liability medical device cases in state and Federal Courts throughout the country and employment and construction related complex class-action and surety bond litigations involving multi-million dollar settlements throughout New York and New Jersey.

Mr. Haroutunian attended Columbia College, Columbia University, where he majored in Political Science and was on the deans' list his last three semesters.

After working as a paralegal for a small general litigation and elder law firm in New York City, Gregory attended the Georgetown University Law Center where he graduated *cum laude*. While at Georgetown Gregory held a year-long judicial internship under Chief Administrative Law Judge



Gregory Haroutunian Biography

(continued)

Ronnie A. Yoder of the United States Department of Transportation and served as a legal intern at the National Whistleblowers' Center where he had his first experiences in *qui tam* and fraud cases.

Work that Gregory did at Georgetown comparing and analyzing aviation regulations was subsequently published in the Law Journal of the Pacific.

He was admitted to the New Jersey and New York Bars in 2013 and the California Bar in 2020 and is admitted to practice in the Northern, Eastern, and Central Districts of California, the Southern District of New York, and the District of New Jersey. Mr. Haroutunian is also admitted to practice in the Southern District of Indiana and the District of Colorado.

Mr. Haroutunian was raised in Montvale, New Jersey.

Select Data Breach Cases for the Arnold Law Firm

In Re: Snap Finance Data Breach, 2:22-cv-00761-TS-JCB
(D.UT.) (Co-Lead Counsel)

Ware v. San Geronio Memorial Hosp., CVRI2301216 (Sup.
Crt of CA, Riverside) (Co-Lead Counsel)

Holmes v. Elephant Insurance Company, et al., 3:22-cv-
00487-JAG (E.D. VA.) (Co-Lead Counsel);

In Re: Arthur J. Gallagher Data Breach Litigation, 1:21-cv-
-04056 (N.D.Ill.) (Co-Lead Counsel);

In Re: CaptureRx Data Breach Litigation, 5:21-cv-00523
(W.D.TX.)(Co-Lead Counsel) (settled);

Rossi v. Claire's Stores, 1:20-cv-05090 (N.D. Ill.) (Co-Lead
Counsel) (settled);

Desue v. 20/20 Eye Care Network, Inc. et al., 0:21-cv-
61275 (S.D. Fla.) (Executive Comm.);



Gregory Haroutunian Biography

(continued)

In re: Mednax Services, Inc. Customer Data Security Breach Litigation, 21-MD-02994 (S.D. Fl.) (Executive Comm.);

Bowdle v. King's Seafood Co. LLC, 8:21-cv-01784-CJC-JDE, (CD. Cal.)(Class Counsel) (settled);

Hashemi et al. v. Bosley, Inc. 2:21-cv-00946 (CD. Cal.) (Class Counsel) (settled);

Heath et al. v. Insurance Technologies Corp et al., 3:21-cv-01444 (N.D. Tex.) (Class Counsel) (settled);

Carrera Aguallo et al. v. Kemper Corporation et al., 1:21-cv-01883 (N.D. Ill.) (Class Counsel) (settled);

Ahn et al. v. Herff Jones, LLC, 1:21-cv-01381 (S.D. Ind.) (settled);

Bitmouni v. Paysafe Limited, 3:21-cv-00641-JCS (N.D. Cal.);

Gaston v. FabFitFun, Inc., 2:20-cv-09534 (C.D. Cal.) (Class Counsel) (settled);

Hamid et al. v. Canon, U.S.A., Inc. et al. 1:20-cv-06380-AMD-SJB (E.D.N.Y.);

In Re: Ambry Genetics Data Breach Litigation, 8:20-cv-00791 (C.D. Cal.) (settled);

In Re: Hanna Andersson and Salesforce.com Data Breach Litigation, 3:20-cv-00812-EMC (N.D. Cal.) (Co-Lead Class Counsel) (settled);

In Re: Morgan Stanley Data Security Litigation, 1:20-cv-05914 (S.D.N.Y.) (settled);

Pfeiffer et al. v. RadNet, Inc., 2:20-cv-09553-RGK-SK (C.D. Cal.)(Class Counsel) (settled);

Thomsen v. Morley Companies, Inc., 1:22-cv-10271-TLL (E.D. Mi.) (settled);

In re Lakeview Loan Servicing Data Breach Litigation, 1:22-cv-20955-DPG (S.D. Fl.);

Myron Schellhorn et al v. Timios, Inc., 2:21-cv-08661-VAP-JC (C.D. Ca.) (settled).

EXHIBIT E



PROVIDING EXEMPLARY LEGAL SERVICES SINCE 1888

FIRM RESUME

Founded in 1888, Wolf Haldenstein Adler Freeman & Herz LLP is a full service law firm specializing in complex litigation in federal and state courts nationwide. The firm's practice includes litigation, both hourly and contingent, in securities, antitrust, wage & hour, consumer fraud, false marketing, ERISA, and general and commercial matters, whistleblower, false claim, trust & estate, corporate investigation, and white collar matters, and FINRA arbitration. The Firm has a particular specialty in complex class action and other representative litigation – including investor, shareholder, antitrust, ERISA, consumer, employee, and biotechnology matters – under both federal and state law.

Wolf Haldenstein's total practice approach distinguishes it from other firms. Our longstanding tradition of a close attorney/client relationship ensures that each one of our clients receives prompt, individual attention and does not become lost in an institutional bureaucracy. Our team approach is at the very heart of Wolf Haldenstein's practice. All of our lawyers are readily available to all of our clients and to each other. The result of this approach is that we provide our clients with an efficient legal team having the broad perspective, expertise and experience required for any matter at hand. We are thus able to provide our clients with cost effective and thorough counsel focused on our clients' overall goals.

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THE FIRM

Wolf Haldenstein has been recognized by state and federal courts throughout the country as being highly experienced in complex litigation, particularly with respect to securities, consumer, ERISA, FLSA and state overtime and expense deductions, and antitrust class actions and shareholder rights litigation.

Among its colleagues in the plaintiffs' bar, as well as among its adversaries in the defense bar, Wolf Haldenstein is known for the high ability of its attorneys, and the exceptionally high quality of its written and oral advocacy.

The nature of the Firm's activities in both individual and representative litigation is extremely broad. In addition to a large case load of securities fraud and other investor class actions, Wolf Haldenstein has represented classes of corn and rice farmers in connection with the devaluation of their crops; canned tuna consumers for tuna companies' violations of antitrust laws; merchants compelled to accept certain types of debit cards; insurance policyholders for insurance companies' deceptive sales practices; victims of unlawful strip searches under the civil rights laws; and various cases involving violations of Internet users' on-line privacy rights.

The Firm's experience in class action securities litigation, in particular public shareholder rights under state law and securities fraud claims arising under the federal securities laws and regulations is particularly extensive. The Firm was one of the lead or other primary counsel in securities class action cases that have recouped billions of dollars on behalf of investor classes, in stockholder rights class actions that have resulted in billions of dollars in increased merger consideration to shareholder classes, and in derivative litigation that has recovered billions of dollars for corporations.

Its pioneering efforts in difficult or unusual areas of securities or investor protection laws include: groundbreaking claims that have been successfully brought under the Investment Company Act of 1940 regarding fiduciary responsibilities of investment companies and their advisors toward their shareholders; claims under ERISA involving fiduciary duties of ERISA trustees who are also insiders in possession of adverse information regarding their fund's primary stockholdings; the fiduciary duties of the directors of Delaware corporations in connection with change of control transactions; the early application of the fraud-on-the-market theory to claims against public accounting firms in connection with their audits of publicly traded corporations; and the application of federal securities class certification standards to state law claims often thought to be beyond the reach of class action treatment.



JUDICIAL COMMENDATIONS

Wolf Haldenstein has repeatedly received favorable judicial recognition. The following representative judicial comments over the past decade indicate the high regard in which the Firm is held:

- *In re Empire State Realty Trust, Inc. Investor Litig.*, No. 650607/2012 (Sup. Ct. N.Y. Co.) – On May 2, 2013, Justice O. Peter Sherwood praised the Firm in its role as chair of the committee of co-lead counsel as follows: "It is apparent to me, having presided over this case, that class counsel has performed in an excellent manner, and you have represented your clients quite well. You should be complimented for that." In awarding attorneys' fees, the Court stated that the fee was "intended to reward class counsel handsomely for the very good result achieved for the Class, assumption of the high risk of Plaintiffs prevailing and the efficiency of effort that resulted in the settlement of the case at an early stage without protracted motion practice." May 17, 2013 slip. op. at 5 (citations omitted).
- *Roberts v. Tishman Speyer*, 13 N.Y.3d 270 (N.Y. 2009) – On April 9, 2013, Justice Richard B. Lowe III praised the Firm's efforts as follows: "[W]hen you have challenging cases, the one thing you like to ask for is that the legal representation on both sides rise to that level. Because when you have lawyers who are professionals, who are confident, who are experienced, each of you know that each side has a job to do [. . .] I want to tell you that I am very satisfied with your performance and with your, quite frankly, tenacity on both sides. And it took six years, but look at the history of the litigation. There were two appeals all of the way to the Court of Appeals [. . .] And then look at the results. I mean, there are dissents in the Court of Appeals, so that shows you the complexity of the issues that were presented in this litigation [. . .] [I]t shows you effort that went into this and the professionalism that was exhibited [. . .] So let me just again express my appreciation to both sides."
- *K.J. Egleston L.P. v. Heartland Industrial Partners, et al.*, 2:06-13555 (E.D. Mich.) – where the Firm was Lead Counsel, Judge Rosen, at the June 7, 2010 final approval hearing, praised the Firm for doing "an outstanding job of representing [its] clients," and further commented that "the conduct of all counsel in this case and the result they have achieved for all of the parties confirms that they deserve the national recognition they enjoy."



- *Klein, et al. v. Ryan Beck Holdings, Inc., et al.*, 06-cv-3460 (DAB) (S.D.N.Y. 2010) – where the Firm was Lead Counsel, Judge Deborah A. Batts described the Firm’s successful establishment of a settlement fund as follows: “[a] miracle that there is a settlement fund at all.” Judge Batts continued: “As I said earlier, there is no question that the litigation is complex and of a large and, if you will, *pioneering magnitude* ...” (Emphasis added).
- *Parker Friedland v. Iridium World Communications, Ltd.*, 99-1002 (D.D.C.) – where the Firm was co-lead counsel, Judge Laughrey said (on October 16, 2008), “[a]ll of the attorneys in this case have done an outstanding job, and I really appreciate the quality of work that we had in our chambers as a result of this case.”
- *In re Dynamic Random Access Memory Antitrust Litigation*, MDL-02-1486 (N.D. Cal.) – where the Firm was co-lead counsel, Judge Hamilton said (on August 15, 2007), “I think I can conclude on the basis with my five years with you all, watching this litigation progress and seeing it wind to a conclusion, that the results are exceptional. The percentages, as you have outlined them, do put this [case] in one of the upper categories of results of this kind of [antitrust] class action. I am aware of the complexity . . . I thought that you all did an exceptionally good job of bringing to me only those matters that really required the Court’s attention. You did an exceptionally good job at organizing and managing the case, assisting me in management of the case. There was excellent coordination between all the various different plaintiffs’ counsel with your group and the other groups that are part of this litigation. . . . So my conclusion is the case was well litigated by both sides, well managed as well by both sides.”
- *In re Comdisco Sec. Litigation*, 01 C 2110 (N.D. Ill. July 14, 2005) – Judge Milton Shadur observed: “It has to be said . . . that the efforts that have been extended [by Wolf Haldenstein] on behalf of the plaintiff class in the face of these obstacles have been exemplary. And in my view [Wolf Haldenstein] reflected the kind of professionalism that the critics of class actions . . . are never willing to recognize. . . . I really cannot speak too highly of the services rendered by class counsel in an extraordinary difficult situation.”
- *Good Morning to You Productions Corp. v. Warner/Chappell Music, Inc.*, No. CV 13-04460-GHK (MRWx) (C.D. Cal., Aug. 16, 2016) – Judge George H. King



stated: "Not all, or perhaps even most, plaintiffs' class counsel could have litigated this case as successfully as did class counsel against such a fierce and exceptionally accomplished opponent."

- *Bokelman et al. v. FCH Enterprises, Inc.*, (Case No. 1:18-cv-209, D. Haw., May 3, 2019): Judge Robert J. Bryan said, "I've been impressed by the quality of the work you've done throughout here, and that is reflected, I think, in the fact that no one has objected to the settlement."

RECENT NOTEWORTHY RESULTS

Wolf Haldenstein's performance in representative litigation has repeatedly resulted in favorable results for its clients. The Firm has helped recover ***billions of dollars*** on behalf of its clients in the cases listed below. Recent examples include the following:

- On May 13, 2019, in *Apple Inc. v. Pepper*, No. 17-204, the Supreme Court affirmed a decision by the Ninth Circuit Court of Appeals holding that iPhone purchasers have standing to sue Apple for monopolizing the market for iPhone apps in this longstanding antitrust class action. Wolf Haldenstein has been Lead Counsel for the plaintiffs since 2007. The case was commenced in federal district court in Oakland. The Supreme Court's decision clears the way for the plaintiffs to proceed on the merits of their claim.
- On June 11, 2018, the United States Supreme Court issued a highly anticipated decision in *China Agritech, Inc. v. Michael H. Resh, et al.* Wolf Haldenstein represented the plaintiffs/respondents, having commenced the action on behalf of aggrieved shareholders of *China Agritech* after two prior cases had failed at the class certification stage.
- *In re Genetically Modified Rice Litigation*, MDL 1811 (E.D. Mo.) - Wolf Haldenstein represented U.S. rice farmers in this landmark action against Bayer A.G. and its global affiliates, achieving a global recovery of \$750 million. The case arose from the contamination of the nation's long grain rice crop by Bayer's experimental and unapproved genetically modified Liberty Link rice.
- *Roberts v. Tishman Speyer*, 13 N.Y.3d 270 (N.Y. 2009) - a class action brought on behalf of over 27,500 current and former tenants of New York City's iconic Stuyvesant Town and Peter Cooper Village housing complexes. On April 9, 2013, Justice Richard B. Lowe III of the New York Supreme Court finally



approved settlement of the action, which totals over \$173 million, sets aside \$68.75 million in damages, re-regulates the apartments at issue, and sets preferential rents for the units that will save tenants significant monies in the future. The settlement also enables the tenants to retain an estimated \$105 million in rent savings they enjoyed between 2009 and 2012. **The settlement is by many magnitudes the largest tenant settlement in United States history.**

- *In re Empire State Realty Trust, Inc. Investor Litig.*, Index No. 650607/2012 – The firm served as Chair of the Executive Committee of Co-Lead Counsel for the Plaintiffs in a class action settlement finally approved on May 2, 2013 that provides for the establishment of a \$55 million settlement fund for investors, in addition to substantial tax deferral benefits estimated to be in excess of \$100 million.
- *American International Group Consolidated Derivative Litigation*, Civil Action No. 769-VCS (Del. Ch.) The Firm acted as co-lead counsel and the settlement addressed claims alleging that the D&O Defendants breached their fiduciary duties to the Company and otherwise committed wrongdoing to the detriment of AIG in connection with various allegedly fraudulent schemes during the 1999-2005 time period.
- *In re Bank of America Corp. Securities, Derivative, and Employee Retirement Income Security Act (ERISA) Litigation*, Master File No. 09 MD 2058 (S.D.N.Y.) (firm was co-lead counsel in parallel derivative action pending in Delaware (*In Re Bank of America Stockholder Derivative Litigation*, C.A. No. 4307-CS (Del. Ch.)) (increase of settlement cash recovery from \$20 million to \$62.5 million).
- *The Investment Committee of the Manhattan and Bronx Service Transit Operating Authority Pension Plan v. JPMorgan Chase Bank, N.A.*, 1:09-cv-04408-SAS (S.D.N.Y.) (class recovered \$150 million).
- *In re Tremont Sec. Law, State Law and Insurance Litig.*, No. 08-civ-11117 (TPG) (SDNY) (class recovered \$100 million). The firm was court-appointed co-lead counsel in the Insurance Action, 08 Civ. 557, and represented a class of persons who purchased or otherwise acquired Variable Universal Life (“VUL”) insurance policies or Deferred Variable Annuity (“DVA”) policies issued by Tremont International Insurance Limited or Argus International Life Bermuda Limited from May 10, 1994 - December 11, 2008 to the extent the investment



accounts of those policies were exposed to the massive Ponzi scheme orchestrated by Bernard L. Madoff through one or more Rye funds.

- *In re Initial Public Offering Securities Litigation*, 21 MC 92 (SAS) (S.D.N.Y.) (class recovered \$586 million). Wolf Haldenstein served as Co-Lead Counsel of one of the largest securities fraud cases in history. Despite the United States Court of Appeals for the Second Circuit's decision to vacate the district court's class certification decision, on remand, counsel for plaintiffs were able to press on to a settlement on April 1, 2009, ultimately recovering in excess of a half-billion dollars.



FIRM PRACTICE AREAS

CLASS ACTION LITIGATION

Wolf Haldenstein is a leader in class and derivative action litigation and is currently or has been the court-appointed lead counsel, co-lead counsel, or executive committee member in some of the largest and most significant class action and derivative action lawsuits in the United States. For example, the class action *Roberts v. Tishman Speyer*, 13 N.Y.3d 270 (N.Y. 2009) was recently described by a sitting member of the U.S. House of Representatives as the greatest legal victory for tenants in her lifetime. In *Roberts*, the Firm obtained a victory in the New York Court of Appeals requiring the reregulation of thousands of apartment units in the Stuyvesant Town complex in Manhattan, New York. Many of the firm's other successful results are summarized within.

PRIVATE ACTIONS FOR INSTITUTIONAL INVESTORS

In addition to its vast class action practice, the Firm also regularly represents institutional clients such as public funds, investment funds, limited partnerships, and qualified institutional buyers in private actions. The Firm has represented institutional clients in non-class federal and state actions concerning a variety of matters, including private placements, disputes with investment advisors, and disputes with corporate management.

The Firm has also acted as special counsel to investors' committees in efforts to assert and advance the investors' interests without resorting to litigation. For example, the Firm served as Counsel to the Courtyard by Marriott Limited Partners Committee for several years in its dealings with Host Marriott Corporation, and as Special Counsel to the Windsor Park Properties 7 and 8 limited partners to insure the fairness of their liquidation transactions.

ANTITRUST LITIGATION

Wolf Haldenstein is a leader in antitrust and competition litigation. The Firm actively seeks to enforce the federal and state antitrust laws to protect and strengthen the rights and claims of businesses, organizations, Taft-Hartley funds, and consumers throughout the United States. To that end, Wolf Haldenstein commences large, often complex, antitrust and trade regulation class actions and other cases that target some of the most powerful and well-funded corporate interests in the world. Many of these interests exert strong influence over enforcement policy that is in the hands of elected officials, so that private enforcement provides the only true assurance that unfair and



anticompetitive conduct will be duly scrutinized for compliance with the law. These cases frequently bring to light concealed, unlawful behavior such as price fixing, monopolization, market allocation, monopoly leveraging, essential facilities, tying arrangements, vertical restraints, exclusive dealing, and refusals to deal. Wolf Haldenstein's Antitrust Practice Group has successfully prosecuted numerous antitrust cases and aggressively advocates remedies and restitution for businesses and investors wronged by violations of the antitrust laws. For example, in *In re DRAM Antitrust Litigation*, No. 02-cv-1486 (PJH) (N.D. Cal.) the firm successfully prosecuted an antitrust case resulting in a \$315 million recovery. Many of the firm's successful results are summarized within.

Wolf Haldenstein attorneys currently serve as lead counsel, co-lead counsel, or as executive committee members in some of the largest and most significant antitrust class action lawsuits. The firm was most recently appointed lead counsel in the Salmon Antitrust Indirect Litigation pending in the U.S. District Court for the Southern District of Florida.

OVERTIME AND COMPENSATION CLASS ACTIONS

Wolf Haldenstein is a leader class action litigation on behalf of employees who have not been paid overtime or other compensation they are entitled to receive, or have had improper deductions taken from their compensation. These claims under the federal Fair Labor Standards Act and state labor laws allege improper failure to pay overtime and other wages, and improper deductions from compensation for various company expenses. Wolf Haldenstein has served as lead or co-lead counsel, or other similar lead role, in some of the most significant overtime class actions pending in the United States, and has recovered hundreds of millions of dollars in recovered wages for its clients. For example, in *LaVoice v. Citigroup Global Markets, Inc.*, Case No. C 07-801 (CW) (N.D. Cal.) a \$108 million settlement was secured for the class. Many of the firm's other successful wage and hour results are summarized within.

SUBSTANTIAL RECOVERIES IN CLASS ACTION AND DERIVATIVE CASES IN WHICH WOLF HALDENSTEIN WAS LEAD COUNSEL OR HAD ANOTHER SIGNIFICANT ROLE

- *In re Beacon Associates Litigation*, Master File No. 09 Civ. 0777 (LBS) (S.D.N.Y.) (\$219 million settlement in this and related action).
- *Roberts v. Tishman Speyer*, No. 100956/2007 (Sup. Ct. N.Y. Cty.) (\$173 Million settlement).



- *In re Mutual Fund Investment Litigation*, MDL No. 1586 (D. Md.) (derivative counsel in consolidated cases against numerous mutual fund companies involved in market timing resulting in class/derivative settlements totaling more than **\$300 million**).
- *Inland Western Securities Litigation*, Case No. 07 C 6174 (N.D. Ill.) (settlement value of shares valued between **\$61.5 million** and **\$90 million**).
- *In re Direxion Shares ETF Trust*, No. 09-Civ-8011 (KBF) (S.D.N.Y.) (class recovered **\$8 million**).
- *In re BankAmerica Corp. Securities Litigation*, MDL Docket No. 1264 (JFN) (E.D. Mo.) (class recovered **\$490 million**).
- *In re Dynamic Random Access Memory Antitrust Litigation*, (MD-02 1486 (N.D. Cal.) (class recovered **\$325 million**).
- *In re MicroStrategy, Inc. Securities Litigation*, Civ. No. 00-473-A (E.D. Va.) (class recovered **\$160 million** in cash and securities).
- *Kurzweil v. Philip Morris Cos.*, 94 Civ. 2373, 94 Civ. 2546 (S.D.N.Y.) (securities fraud) (class recovered **\$116.5 million** in cash).
- *In re Starlink Corn Products Liability Litigation*, (N.D. Ill.) (class recovered **\$110 million**).
- *In Computer Associates 2002 Class Action Sec. Litigation*, 2:02-CV-1226 (E.D.N.Y.) (**\$130 million** settlement in this and two related actions).
- *In re Sepracor Inc. Securities Litigation*, Civ. No. 02-12338 (MEL) (D. Mass.) (classes recovered **\$52.5 million**).
- *In re Transkaryotic Therapies, Inc., Securities Litigation*, C.A. No. 03-10165-RWZ (D. Mass) (class recovered **\$50 million**).
- *In re Iridium Securities Litigation*, C.A. No. 99-1002 (D.D.C.) (class recovered **\$43 million**).



- *In re J.P. Morgan Chase Securities Litigation*, MDL No. 1783 (N.D. Ill.) (settlement providing for adoption of corporate governance principles relating to potential corporate transactions requiring shareholder approval).
- *LaVoice v. Citigroup Global Markets, Inc.*, Case No. C 07-801 (CW) (N.D. Cal.) (**\$108 million** settlement).
- *Steinberg v. Morgan Stanley & Co., Inc.*, Case No. 06-cv-2628 (BEN) (S.D. Cal.) (**\$50 million** settlement).
- *Poole v. Merrill Lynch, Pierce, Fenner & Smith Inc.*, Case No. CV-06-1657 (D. Or.) (**\$43.5 million** settlement).
- *In re Wachovia Securities, LLC Wage and Hour Litigation*, MDL No. 07-1807 DOC (C.D. Cal.) (**\$39 million** settlement).
- *In re Wachovia Securities, LLC Wage and Hour Litigation (Prudential)*, MDL No. 07-1807 DOC (C.D. Cal.) (**\$11 million** settlement).
- *Basile v. A.G. Edwards, Inc.*, 08-CV-00338-JAH-RBB (S.D. Cal.) (**\$12 million** settlement).
- *Miguel Garcia, et al. v. Lowe's Home Center, Inc. et al.* – Case No. GIC 841120 (Barton) (Cal. Sup. Ct, San Diego) (co-lead, **\$1.65 million** settlement w/ average class member recovery of \$5,500, attorney fees and cost awarded separately).
- *Neil Weinstein, et al. v. MetLife, Inc., et al.* – Case No. 3:06-cv-04444-SI (N.D. Cal) (co-lead, **\$7.4 million** settlement).
- *Creighton v. Oppenheimer*, Index No. 1:06 - cv - 04607 - BSJ - DCF (S.D.N.Y.) (**\$2.3 million** settlement).
- *Klein v. Ryan Beck*, 06-CV-3460 (DAB)(S.D.N.Y.) (**\$1.3 million** settlement).
- *In re American Pharmaceutical Partners, Inc. Shareholder Litigation*, Consolidated C.A. No. 1823-N (Del. Ch. Ct.) (**\$14.3 million** settlement).
- *Egleston v. Collins and Aikman Corp.*, 06-cv-13555 (E.D. Mich.) (class recovered **\$12 million**).



- *In re Merrill Lynch & Co., Inc. Global Technology Fund Securities Litigation*, 02 CV 7854 (JFK) (SDNY); and *In re Merrill Lynch & Co., Inc. Focus Twenty Fund Securities Litigation*, 02 CV 10221 (JFK) (SDNY) (class recovered **\$39 million** in combined cases).
- *In re CNL Hotels & Resorts, Inc. Securities Litigation*, No. 6:04-cv-1231 (Orl-31) (class recovered **\$35 million**, and lawsuit also instrumental in **\$225 million** benefit to corporation).
- *In re Cablevision Systems Corp. Shareholder Derivative Litigation*, Master File No. 06-CV-4130-DGT-AKT (**\$34.4 million** recovery).
- *In re Monster Worldwide, Inc. Stock Option Derivative Litigation*, Master File No. 06cv4622 (S.D.N.Y.) (**\$32 million** recovery and corporate governance reforms).
- *Berger v. Compaq Computer Corp.*, Docket No. 98-1148 (S.D. Tex.) (class recovered **\$29 million**).
- *In re Arakis Energy Corporation Securities Litigation*, 95 CV 3431 (E.D.N.Y.) (class recovered **\$24 million**).
- *In re E.W. Blanche Holdings, Inc. Securities Litigation*, Civ. No. 01-258 (D. Minn.) (class recovered **\$20 million**).
- *In re Globalstar Securities Litigation*, Case No. 01-CV-1748 (SHS) (S.D.N.Y.) (class recovered **\$20 million**).
- *In re Luxottica Group S.p.A. Securities Litigation*, No. CV 01-3285 (E.D.N.Y) (class recovered **\$18.25 million**).
- *In re Musicmaker.com Securities Litigation*, CV-00-2018 (C.D. Cal.) (class recovered **\$13.75 million**).
- *In re Comdisco Securities Litigation*, No. 01 C 2110 (MIS) (N.D. Ill.) (class recovered **\$13.75 million**).
- *In re Acclaim Entertainment, Inc., Securities Litigation*, C.A. No. 03-CV-1270 (E.D.N.Y.) (class recovered **\$13.65 million**).



- *In re Concord EFS, Inc. Securities Litigation*, No. 02-2097 (MA) (W.D. Tenn) (class recovered **\$13.25 million**).
- *In re Bausch & Lomb, Inc. Securities Litigation*, 01 Civ. 6190 (CJS) (W.D.N.Y.) (class recovered **\$12.5 million**).
- *In re Allaire Corp. Securities Litigation*, 00-11972 (D. Mass.) (class recovered **\$12 million**).
- *Bamboo Partners LLC v. Robert Mondavi Corp.*, No. 26-27170 (Cal. Sup. Ct.) (class recovered **\$10.8 million**).
- *Curative Health Services Securities Litigation*, 99-2074 (E.D.N.Y.) (class recovered **\$10.5 million**).
- *City Partnership Co. v. Jones Intercable*, 99 WM-1051 (D. Colo.) (class recovered **\$10.5 million**).
- *In re Aquila, Inc.*, (ERISA Litigation), 04-865 (W.D. Mo.) (**\$10.5 million** recovery for the class).
- *In re Tenfold Corporation Securities Litigation*, 2:00-CV-652 (D. Utah) (class recovered **\$5.9 million**).
- *In re Industrial Gas Antitrust Litigation*, 80 C 3479 and related cases (N.D. Ill.) (class recovered **\$50 million**).
- *In re Chor-Alkalai and Caustic Soda Antitrust Litigation*, 86-5428 and related cases (E.D. Pa.) (class recovered **\$55 million**).
- *In re Infant Formula Antitrust Litigation*, MDL No. 878 (N.D. Fla.) (class recovered **\$126 million**).
- *In re Brand Name Prescription Drugs Antitrust Litigation*, No. 1:94-cv-00897, M.D.L. 997 (N.D. Ill.) (class recovered **\$715 million**).
- *Landon v. Freel*, M.D.L. No. 592 (S.D. Tex.) (class recovered **\$12 million**).
- *Holloway v. Peat, Marwick, Mitchell & Co.*, No. 84 C 814 EU (N.D. Okla.) (class recovered **\$38 million**).



- *In re The Chubb Corp. Drought Insurance Litigation*, C-1-88-644 (S.D. Ohio) (class recovered **\$100 million**).
- *Wong v. Megafoods*, Civ-94-1702 (D. Ariz.) (securities fraud) (class recovered **\$12.25 million**).
- *In re Del Val Financial Corp. Securities Litigation*, 92 Civ 4854 (S.D.N.Y.) (class recovered **\$11.5 million**).
- *In re Home Shopping Network Shareholders Litigation*, Consolidated Civil Action No. 12868, (Del. Ch. 1995) (class recovered **\$13 million**).
- *In re Paine Webber Limited Partnerships Litigation*, 94 Civ 8547 (S.D.N.Y.) (class recovered **\$200 million**).
- *In re Bristol-Meyers Squibb Co. Securities Litigation*, 92 Civ 4007 (S.D.N.Y.) (class recovered **\$19 million**).
- *In re Spectrum Information Technologies Securities Litigation*, CV 93-2245 (E.D.N.Y.) (class recovered **\$13 million**).
- *In re Chase Manhattan Securities Litigation*, 90 Civ. 6092 (LJF) (S.D.N.Y.) (class recovered **\$17.5 million**).
- *Prostic v. Xerox Corp.*, No. B-90-113 (EBB) (D. Conn.) (class recovered **\$9 million**).
- *Steiner v. Hercules*, Civil Action No. 90-442-RRM (D. Del.) (class recovered **\$18 million**).
- *In re Ambase Securities Litigation*, 90 Civ 2011 (S.D.N.Y.) (class recovered **\$14.6 million**).
- *In re Southmark Securities Litigation*, CA No. 3-89-1402-D (N.D. Tex.) (class recovered **\$70 million**).
- *Steiner v. Ideal Basic Industries, Inc.*, No. 86-M 456 (D. Colo. 1989) (securities fraud) (class recovered **\$18 million**).
- *Tucson Electric Power Derivative Litigation*, 2:89 Civ. 01274 TUC. ACM (corporation recovered **\$30 million**).



- *Alleco Stockholders Litigation*, (Md. Cir. Ct. Pr. Georges County) (class recovered **\$16 million**).
- *In re Revlon Group, Inc. Shareholders Litigation*, No. 8362 (Del. Ch.) (class recovered **\$30 million**).
- *In re Taft Broadcasting Company Shareholders Litigation*, No. 8897 (Del. Ch.) (class recovered **\$20 million**).
- *In re Southland Corp. Securities Litigation*, No. 87-8834-K (N.D.Tex.) (class recovered **\$20 million**).
- *In re Crocker Bank Securities Litigation*, CA No. 7405 (Del. Ch.) (class recovered **\$30 million**).
- *In re Warner Communications Securities Litigation*, No. 82 Civ. 8288 (JFK) (S.D.N.Y.) (class recovered **\$17.5 million**).
- *Joseph v. Shell Oil*, CA No. 7450 (Del. Ch.) (securities fraud) (class recovered **\$200 million**).
- *In re Flight Transportation Corp. Securities Litigation*, Master Docket No. 4-82-874, MDL No. 517 (D. Minn.) (recovery of over **\$50 million**).
- *In re Whittaker Corporation Securities Litigation*, CA000817 (Cal. Super. Ct., Los Angeles County) (class recovered **\$18 million**).
- *Naevus International, Inc. v. AT&T Corp.*, C.A. No. 602191/99 (N.Y. Sup. Ct.) (consumer fraud) (class recovered **\$40 million**).
- *Sewell v. Sprint PCS Limited Partnership*, C.A. No. 97-188027/CC 3879 (Cir. Ct. for Baltimore City) (consumer fraud) (class recovered **\$45.2 million**).
- *In re Vytarin/Zetia Marketing, Sales Practices and Products Liability Litigation*, 2:08-cv-285 (D.N.J.) (class recovered **\$41.5 million**).
- *Egleston v. Verizon*, No. 104784/2011 (N.Y. Sup. Ct.) – Wolf Haldenstein represented a class of New York Verizon Centrex customers in an action against Verizon stemming from overbilling of certain charges. The Firm secured a settlement with a total value to the Class of over **\$5 million**, which



provided, among other things, each class member with full refunds of certain disputed charges, plus interest.

- *Zelouf Int'l Corp. v. Nahal Zelouf*, Index No. 653652/2014 (Sup. Ct. N.Y. Co. 2015). In an important trial decision following an appraisal proceeding triggered by the freeze-out merger of a closely-held corporation, which also included shareholder derivative claims, Justice Kornreich of the New York Supreme Court refused to apply a discount for lack of marketability to the minority interest in the former corporation and found that the insiders stole more than \$14 million dollars; the minority shareholder recovered over **\$9 million**.
- *Zelouf Int'l Corp. v. Zelouf*, 45 Misc.3d 1205(A) (Sup. Ct. N.Y. Co., 2014). The Court rejected application of a discount for lack of marketability and awarded a **\$10,031,438.28** judgment following an eleven day bench trial in the Commercial Division of the Supreme Court of the State of New York (New York County) on the value of a minority interest in a closely held corporation.
- *Thompson et al. v. Bethpage Federal Credit Union et al.*, No. 2:17-cv-00921-GRB (E.D.N.Y.) (**\$3.6 million** settlement)



REPRESENTATIVE REPORTED OPINIONS SINCE 1990 IN WHICH WOLF
HALDENSTEIN WAS LEAD COUNSEL OR HAD ANOTHER SIGNIFICANT ROLE

FEDERAL APPELLATE AND DISTRICT COURT OPINIONS

- *Apple Inc. v. Pepper*, 139 S. Ct. 1514 (2019)
- *Hymes v. Bank of America*, 408 F. Supp. 3d 171 (E.D.N.Y. 2019)
- *In re Packaged Seafood Prods. Antitrust Litig.*, 332 F.R.D. 308 (S.D. Cal. 2019)
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ATTORNEY BIOGRAPHIES

The qualifications of the attorneys in the Wolf Haldenstein Litigation Group are set forth below and are followed by descriptions of some of the Firm's attorneys who normally practice outside the Litigation Group who contribute significantly to the class action practice from time to time.

PARTNERS

MARK C. RIFKIN: *admitted:* New York; Pennsylvania; New Jersey; U.S. Supreme Court; U.S. Courts of Appeals for the Second, Third, Fifth, and D.C. Circuits; U.S. District Courts for the Southern and Eastern Districts of New York, the Eastern and Western Districts of Pennsylvania, the District of New Jersey, the Eastern District of Wisconsin and the Western District of Michigan. *Education:* Princeton University (A.B. 1982); Villanova University School of Law (J.D. 1985). Contributor, Packel & Poulin, *Pennsylvania Evidence* (1987).

A highly experienced securities class action and shareholder rights litigator, Mr. Rifkin has recovered hundreds of millions of dollars for victims of corporate fraud and abuse in federal and state litigation across the country. Since 1990, Mr. Rifkin has served as lead counsel, co-lead counsel, or trial counsel in many class and derivative actions in securities, intellectual property, antitrust, insurance, consumer and mass tort litigation throughout the country.

Unique among his peers in the class action practice, Mr. Rifkin has extensive trial experience. Over the past thirty years, Mr. Rifkin has tried many complex commercial actions in federal and state courts across the country in class and derivative actions, including *In re National Media Corp. Derivative Litig.*, C.A. 90-7574 (E.D. Pa.), *Upp v. Mellon Bank, N.A.*, C.A. No. 91-5229 (E.D. Pa.), where the verdict awarded more than \$60 million in damages to the Class (later reversed on appeal, 997 F.2d 1039 (3d Cir. 1993)), and *In re AST Research Securities Litigation*, No. 94-1370 SVW (C.D. Cal.), as well as a number of commercial matters for individual clients, including *Zelouf Int'l Corp. v. Zelouf*, Index No. 653652/2013 (N.Y. Sup. Ct. 2015), in which he obtained a \$10 million judgment for his client.

Mr. Rifkin also has extensive appellate experience. Over thirty years, Mr. Rifkin has argued dozens of appeals on behalf of appellants and appellees in several federal appellate courts, and in the highest appellate courts in New York, Pennsylvania, New Jersey, and Delaware.



Mr. Rifkin has earned the AV®-Preeminent rating by Martindale-Hubbell® for more than 20 years, and has been selected for inclusion in the New York Metro SuperLawyers® listing since 2010. In 2014, Mr. Rifkin was named a “Titan of the Plaintiff’s Bar” by Law360®.

In 2015, Mr. Rifkin received worldwide acclaim for his role as lead counsel for the class in *Good Morning To You Productions Corp. v. Warner/Chappell Music, Inc.*, No. CV 13-04460-GHK (MRWx), in federal court in Los Angeles, successfully challenging the copyright to “Happy Birthday to You,” the world’s most famous song. In recognition of his historic victory, Mr. Rifkin was named a Trailblazer in Intellectual Property by the National Law Journal in 2016. In 2018, Mr. Rifkin led a team of lawyers from Wolf Haldenstein who represented the plaintiffs in *We Shall Overcome Foundation, et al. v. The Richmond Organization, Inc., et al.*, No. 16-cv-02725-DLC (S.D.N.Y.), which successfully challenged the copyright to “We Shall Overcome,” called the “most powerful song of the 20th century” by the Librarian of Congress.

Mr. Rifkin lectures frequently to business and professional organizations on a variety of securities, shareholder, intellectual property, and corporate governance matters. Mr. Rifkin is a guest lecturer to graduate and undergraduate economics and finance students on corporate governance and financial disclosure topics. He also serves as a moot court judge for the A.B.A. and New York University Law School. Mr. Rifkin appears frequently in print and broadcast media on diverse law-related topics in corporate, securities, intellectual property, antitrust, regulatory, and enforcement matters.

BETSY C. MANIFOLD: *admitted:* Wisconsin; New York; California; U.S. District Courts for the Western District of Wisconsin, Eastern and Southern Districts of New York, and Northern, Central and Southern Districts of California. *Education:* Elmira College; Middlebury College (B.A., *cum laude*, 1980); Marquette University (J.D., 1986); New York University. Thomas More Scholar. Recipient, American Jurisprudence Award in Agency. Member: The Association of the Bar of the City of New York. Languages: French.

Ms. Manifold served as co-lead counsel in the following cases to recovery on behalf of employees: *Miguel Garcia, et al. v. Lowe’s Home Center, Inc. et al.* – Case No. GIC 841120 (Barton) (Cal. Sup. Ct, San Diego) (\$1.65 million settlement w/ average class member recovery of \$5,500, attorney fees and cost awarded separately) and *Neil Weinstein, et al.*



v. MetLife, Inc., et al. – Case No. 3:06-cv-04444-SI (N.D. Cal) (\$7.4 million settlement). Ms. Manifold also served as co-lead counsel in the following derivative actions: *In re Atmel Corporation Derivative Litigation*, Master File No. CV 06-4592-JF (N.D. Cal.) (\$9.65 million payment to Atmel) and *In re Silicon Storage Technology Inc. Derivative Litig.*, Case No. C 06-04310 JF (N.D. Cal.) (cash payment and re-pricing of options with a total value of \$5.45 million). Ms. Manifold also worked as lead counsel on the following class action: *Lewis v. American Spectrum Realty*, Case No. 01 CC 00394, Cal. Sup. Ct (Orange County) (\$6.5 million settlement).

BENJAMIN Y. KAUFMAN: *admitted:* New York, United States Supreme Court, United States Court of Appeals for the Fourth Circuit, Southern, Northern and Eastern Districts of New York, District of New Jersey; and District of Colorado. *Education:* Yeshiva University, B.A.; Benjamin N. Cardozo School of Law, Yeshiva University, J.D; New York University, Stern School of Business, M.B.A. Mr. Kaufman focuses on class actions on behalf of defrauded shareholders, investors, and consumers. Mr. Kaufman has extensive experience in complex class actions representing clients including institutional investors such as public and labor pension funds, labor health and welfare benefit funds, as well as private individuals and funds who suffered losses due to corporate fraud. Mr. Kaufman also has extensive experience litigating complex commercial cases in state and federal court.

Mr. Kaufman's successful securities litigations include *In re Deutsche Telekom AG Securities Litigation*, No. 00-9475 (S.D.N.Y.), a complex international securities litigation requiring evidentiary discovery in both the United States and Europe, which settled for \$120 million. Mr. Kaufman was also part of the team that recovered \$46 million for investors in *In re Asia Pulp & Paper Securities Litigation*, No. 01-7351 (S.D.N.Y.); and \$43.1 million in *Freeland v. Iridium World Communications, Ltd.*, No. 99-1002 (D.D.C.).

Mr. Kaufman's outstanding representative results in derivative and transactional litigations include: *In re Trump Hotels Shareholder Derivative Litigation*, No. 96-cv-7820 (S.D.N.Y.) (in settlement Trump personally contributed some of his holdings and the company adopted corporate reforms); *Southwest Airlines Derivative Litigation (Carbon County Employee Retirement System v. Kelly)* (Dist. Ct. Dallas Cnty., Tex.) (derivative matter that resulted in significant reforms to the air carrier's corporate governance and safety and maintenance practices and procedures for the benefit of the company and its shareholders); *Lynn v. Tennessee Commerce Bancorp, Inc., et al.*, No. 3:12-cv-01137 (M.D. Tenn.) (\$2.6 million settlement); *In re ClubCorp Holdings Shareholder Litigation*, No. A-17-758912-B (D. Nev.) (\$5 million settlement and corporate therapeutics). Mr. Kaufman



also argued the appeal in *In re Converse Technology, Inc. Derivative Litig.*, 56 A.D.3d 49 (1st Dep't 2008) which led to the seminal New York Appellate Division opinion clarifying the standards of demand futility in New York and *In re Topps Company, Inc. Shareholders Litigation* which resulted in a 2007 decision vindicating the rights of shareholders to pursue claims in the most relevant forum notwithstanding the state of incorporation. Mr. Kaufman has also lectured and taught in the subjects of corporate governance as well as transactional and derivative litigation.

In addition, Mr. Kaufman has represented many corporate clients in complex commercial matters, including complex copyright royalty class actions against music companies. *Puckett v. Sony Music Entertainment*, No. 108802/98 (Sup. Ct. N.Y. Cnty.); *Shropshire v. Sony Music Entertainment*, No. 06-3252 (S.D.N.Y.), and *The Youngbloods v. BMG Music*, No. 07-2394 (S.D.N.Y.). In *Mich II Holdings LLC v. Schron*, No. 600736/10 (Sup. Ct. N.Y. Cnty.), Mr. Kaufman represented certain prominent real estate investors and successfully moved to dismiss all claims against those defendants. Mr. Kaufman has also represented clients in arbitrations and litigations involving oppressed minority shareholders in closely held corporations.

Currently, Mr. Kaufman represents clients in a wide array of matters, including shareholders of a large cooperative complex alleging breach of fiduciary duty by the board of directors and property manager; purchasers of New York City taxi medallions in a class action pending in New York Supreme Court, Queens County; a New York art gallery in an action against several European insurers over insurance coverage for paintings seized while on exhibit; and shareholders of Saks, Inc. alleging that the board of directors and its investment advisor sold the company for inadequate consideration. *Cohen v. Saks*, 169 A.D.3d 51 (1st Dep't 2019).

Prior to joining Wolf Haldenstein, and prior to joining Milberg LLP in 1998, Mr. Kaufman was a Court Attorney for the New York State Supreme Court, New York County (1988-1990) and Principal Law Clerk to Justice Herman Cahn of the Commercial Division of the New York State Supreme Court, New York County (1990-1998).

Mr. Kaufman is an active member of the Commercial and Federal Litigation Section of the New York State Bar Association, the International Association of Jewish Lawyers and Jurists and the Jewish Lawyers Guild in which he serves as a Vice President. Mr. Kaufman was the Dinner Chair at the Jewish Lawyers Guild Annual Dinner in 2017, 2018, and 2019. Mr. Kaufman is a member of the Board of Trustees of Congregation



Beth Sholom in Lawrence, NY and was a member of the Board of Trustees of the Hebrew Academy of the Five Towns and Rockaways from 2015-2019.

Mr. Kaufman has been recognized by SuperLawyers® each year since 2012.

THOMAS H. BURT: *admitted:* New York; U.S. District Courts for the Southern and Eastern Districts of New York, Eastern District of Michigan. *Education:* American University (B.A. 1993); New York University (J.D. 1997). Articles Editor with New York University Review of Law and Social Change. Mr. Burt is a litigator with a practice concentrated in securities class actions and complex commercial litigation. After practicing criminal defense with noted defense lawyer Jack T. Litman for three years, he joined Wolf Haldenstein, where he has worked on such notable cases as *In re Initial Public Offering Securities Litigation*, No. 21 MC 92 (SAS) (S.D.N.Y.) (a novel and sweeping amalgamation of over 300 class actions which resulted in a recovery of \$586 million); *In re MicroStrategy Securities Litigation*, No. 00-473-A (E.D. Va.) (recovery of \$192 million); *In re DRAM Antitrust Litigation*, No. 02-cv-1486 (PJH) (N.D. Cal.) (antitrust case resulting in \$315 million recovery); *In re Computer Associates 2002 Class Action Securities Litigation*, No. 02-cv-1226 (TCP) (E.D.N.Y.) (settled, together with a related fraud case, for over \$133 million); *K.J. Egleston L.P. v. Heartland Industrial Partners, et al.*, 2:06-13555 (E.D. Mich.) (recovery included personal assets from former Reagan Administration budget director David A. Stockman); and *Parker Friedland v. Iridium World Communications, Ltd.*, 99-1002 (D.D.C.) (recovery of \$43.1 million). Mr. Burt has spoken on several occasions to investor and activist groups regarding the intersection of litigation and corporate social responsibility. Mr. Burt writes and speaks on both securities and antitrust litigation topics. He has served as a board member and officer of the St. Andrew's Society of the State of New York, New York's oldest charity.

RACHELE R. BYRD: *admitted:* California; U.S. District Courts for the Southern, Northern, Central and Eastern Districts of California, the Northern District of Illinois, and the Eastern District of Michigan; U.S. Court of Appeals for the Ninth Circuit; U.S. Supreme Court. *Education:* Point Loma Nazarene College (B.A., 1994); University of California, Hastings College of the Law (J.D. 1997). Member: State Bar of California. Ms. Byrd is located in the firm's San Diego office and practices corporate derivative and class action litigation including securities, consumer, privacy and security, antitrust, employment and general corporate and business litigation. Ms. Byrd has played a significant role in litigating numerous class and derivative actions, including *Engquist v. City of Los Angeles*, No. BC591331 (Los Angeles Super. Ct.) (gas tax refund action that recently settled for \$32.5 million and injunctive relief, valued at a minimum of \$24.5



million over 3 years and \$81.8 million over 10 years, following certification of the class and on the eve of a hearing on the parties' cross-motions for summary judgment); *Ardon v. City of Los Angeles*, 52 Cal.4th 241 (2011) (telephone tax refund action against the City of Los Angeles that settled for \$92.5 million after a successful appeal and a groundbreaking opinion from the California Supreme Court); *McWilliams v. City of Long Beach*, Cal. Supreme Ct. No. S202037, 2013 Cal. LEXIS 3510 (April 25, 2013) (telephone tax refund action that settled for \$16.6 million after a successful appeal and another groundbreaking opinion from the California Supreme Court); *Granados v. County of Los Angeles*, BC361470 (Los Angeles Super. Ct.) (telephone tax refund action that settled for \$16.9 million following class certification and a successful appeal); *In re: Zoom Video Communications, Inc. Privacy Litigation*, No. 5:20-cv-0291 (N.D. Cal.) (member of Plaintiffs' Steering Committee; settled for \$85 million); *In re Robinhood Outage Litigation*, No. 20-cv-01626-JD (N.D. Cal.) (member of Plaintiffs' Executive Committee); *In re Apple iPhone Antitrust Litigation*, No. 4:11-cv-06714-YGR (N.D. Cal.) (ongoing antitrust class action on behalf of consumers against Apple over its monopolization of the iOS applications aftermarket that secured a favorable opinion in the U.S. Supreme Court: *Apple Inc. v. Pepper*, 139 S. Ct. 1514 (2019)); *Defrees v. Kirkland, et al.*, 11-04272 (JLS) (C.D. Cal.) (\$12.2 million settlement reached in derivative action on the eve of trial); *Bokelman et al. v. FCH Enterprises, Inc.*, No. 18-00209-RJB-RLP (D. Haw.) (settled data breach class action; final approval granted May 3, 2019); *Carrera Aguallo, et al. v. Kemper Corp., et al.*, No. 1:21-cv-01883 (N.D. Ill.) (settled data breach class action where Ms. Byrd was Interim Co-Lead Counsel; final approval granted March 18, 2022); *In re: Scripps Health Data Incident Litigation*, San Diego Super. Ct. No. 37-2021-00024103-CU-BT-CTL (ongoing data breach class action where Wolf Haldenstein is co-lead counsel); *Hinds v. Community Medical Centers, Inc.*, No. STK-CV-UNPI-2021-10404 (San Joaquin Super. Ct.) (ongoing data breach class action where Wolf Haldenstein is co-lead counsel); *Christofferson v. Creation Entertainment, Inc.*, No. 19STCV11000 (Los Angeles Super. Ct.) (settled data breach class action; final approval granted on June 29, 2021); *In re: Hanna Andersson and salesforce.com Data Breach Litig.*, No. 3:20-cv-00812-EMC (N.D. Cal.) (settled data breach class action; final approval granted on June 25, 2021); *Gaston v. FabFitFun, Inc.*, No. 2:20-cv-09534-RGK-E (C.D. Cal.) (settled data breach class action; final approval granted on December 6, 2021); *Rossi v. Claire's Stores*, No. 1:20-cv-05090 (N.D. Ill.) (settled data breach class action; preliminary approval granted March 28, 2022); *Riggs v. Kroto, Inc., D/B/A/ iCanvas*, No. 1:20-cv-5822 (N.D. Ill.) (settled data breach class action; final approval granted on October 29, 2021); *Thomas v. San Diego Family Care*, San Diego Super. Ct. No. 37-2021-00026758-CU-BT-CTL (settled data breach class action; preliminary approval granted April 13, 2022); *Miller v. CSI Financial, LLC*, No. 37-



2021-00030263-CU-BT-CT (San Diego Super. Ct.) (recently settled data breach class action); *Fields v. The Regents of the University of California*, Alameda Superior Court No. RG21107152 (ongoing data breach class action); *In re Arthur J. Gallagher Data Breach Litigation*, No. 1:21-cv-04056 (N.D. Ill.) (ongoing); *In re: CaptureRx Data Breach Litigation*, No. 5:21-cv-00523-OLG (W.D. Tex.) (settled data breach class action; preliminary approval granted March 3, 2022).

MATTHEW M. GUINEY: *admitted:* New York State; United States Supreme Court; United States Courts of Appeals for the Second, Third and Ninth Circuits; U.S. District Courts for the Southern and Eastern District of New York and numerous others. *Education:* The College of William & Mary (B.A. in Government and Economics 1998); Georgetown University Law Center (J.D. 2002). Mr. Guiney's primary areas of practice are securities class actions under the Securities Act of 1933 and the Exchange Act of 1934, complex commercial litigation, Employee Retirement Income Security Act (ERISA) actions on behalf of plan participants, Fair Labor Standards Act of 1938 actions concerning overtime payment, and fiduciary duty actions under various state laws. Mr. Guiney has helped recover hundreds of millions of dollars for victims of corporate fraud and abuse in federal and state litigation across the country. Mr. Guiney was on the merits briefs at the United States Supreme Court on behalf of the plaintiffs/respondents in *Apple Inc. v. Pepper*, No. 17-204, 587 U.S. ___ (2019) where the Court affirmed plaintiffs' antitrust standing under *Illinois Brick*. Mr. Guiney also represented plaintiffs/respondents at the United States Supreme Court in *China Agritech v. Resh*, 584 U.S. __ (2018), where the Court addressed tolling in the class action context. Mr. Guiney also initially served as counsel of record and briefed opposition to petition for writ of certiorari, and argued and achieved a precedential reversal of motion to dismiss in a published opinion at the United States Court of Appeals for the Ninth Circuit in *Resh v. China Agritech*, No. 15-5543, 2017 U.S. App. LEXIS 9029 (9th Cir. May 24, 2017).

Some of Mr. Guiney's notable results on behalf of investors include: *Mallozzi v. Industrial Enterprises of America, Inc., et al.*, 1:07-cv-10321-DLC (S.D.N.Y.) (\$3.4 million settlement on behalf of shareholders); *In re Luxottica Group S.p.A. Securities Litigation*, No. CV 01-3285 (JBW) (MDG) (E.D.N.Y.) (\$18.5 million settlement on behalf of shareholders); *In re MBNA Corp. ERISA Litigation*, Master Docket No. 05-429 (GMS), (D. Del) (\$4.5 million settlement on behalf of plan participants).

MALCOLM T. BROWN: *admitted:* United States District Courts for the Eastern, Northern, and Southern Districts of New York; District of New Jersey; and Eastern



District of Pennsylvania; United States Court of Appeals for the Second Circuit. **Education:** University of Pennsylvania (B.A., Political Science 1988) and Rutgers University School of Law (J.D. 1994). Mr. Brown's primary areas of practice are securities, derivative, M&A litigation and consumer class actions. Recent notable decisions include: *Siegmund v. Bian*, 2019 U.S. Dist. LEXIS 19349 (S.D. Fla. Feb. 6, 2019); *Siegmund v. Bian*, 2018 U.S. Dist. LEXIS 55724, 2018 U.S. Dist. LEXIS 55725 (April 2, 2018); *Johnson v. Ford Motor Co.*, 309 F.R.D. 226 (S.D. W. Va. 2015); *Thomas v. Ford Motor Co.*, 2014 U.S. Dist. LEXIS 43268 (D.S.C. Mar. 31, 2014); *In re Merkin Sec. Litig.*, 2015 U.S. Dist. LEXIS 178084 (S.D.N.Y. Aug. 24, 2015). Prior to joining Wolf Haldenstein, Mr. Brown was a business litigation attorney who represented financial institutions, corporations and partnerships and advised clients on business disputes, reorganizations, dissolutions and insurance coverage matters.

Mr. Brown is a member of the National Association of Pension Plan Attorneys and the National Black Lawyers, and a Fellow of the American Bar Foundation.

SPECIAL COUNSEL

JUSTICE HERMAN CAHN: *admitted:* New York. **Education:** Harvard Law School and a B.A. from City College of the City University of New York. Justice Herman Cahn was first elected as Judge of the Civil Court of the City of New York in 1976. He subsequently served as an Acting Justice of the Supreme Court from 1980 until 1992, when he was elected to the Supreme Court. Throughout his decades on the bench, he principally handled civil cases, with the exception of 1981 until 1987, when he presided over criminal matters. Justice Cahn was instrumental in the creation of, and a founding Justice in, the Commercial Division within the New York State Supreme Court. He served as a Justice of the Commercial Division from its inception in 1993.

Among his most notable recent cases are the consolidated cases stemming from the Bear Stearns merger with JP Morgan (*In re Bear Stearns Litigation*); litigation regarding the America's Cup Yacht Race (*Golden Gate Yacht Club v. Société Nautique de Genève*); litigation stemming from the attempt to enjoin the construction of the new Yankee Stadium (*Save Our Parks v. City of New York*); and the consolidated state cases regarding the rebuilding of the World Trade Center site (*World Trade Center Properties v. Alliance Insurance; Port Authority v. Alliance Insurance*).

Justice Cahn is a member of the Council on Judicial Administration of the Association of the Bar of the City of New York. He has also recently been appointed to the



Character and Fitness Committee of the Appellate Division, First Department. He is on the Register of Mediators for the United States Bankruptcy Court, Southern and Eastern Districts of New York.

Before ascending the bench, Justice Cahn practiced law in Manhattan. He was first admitted to the New York bar in 1956. He is admitted to practice in numerous courts, including the New York State courts, the Southern District of New York and the United States Supreme Court.

OF COUNSEL

DANIEL W. KRASNER: *admitted:* New York; Supreme Court of the United States; U.S. Courts of Appeals for the Second, Third, Fourth, Sixth, Eighth, Ninth, Tenth, and Eleventh Circuits; U.S. District Courts for the Southern and Eastern Districts of New York, Central District of Illinois, and Northern District of Michigan. *Education:* Yale Law School (LL.B., 1965); Yeshiva College (B.A., 1962). Mr. Krasner is of counsel at Wolf Haldenstein. He began practicing law with Abraham L. Pomerantz, generally credited as the "Dean of the Class Action Bar." He founded the Class Litigation Group at Wolf Haldenstein in 1976.

Mr. Krasner received judicial praise for his class action acumen as early as 1978. *See, e.g., Shapiro v. Consolidated Edison Co.*, [1978 Transfer Binder] Fed. Sec. L. Rep. (CCH) & 96,364 at 93,252 (S.D.N.Y. 1978) ("in the Court's opinion the reputation, skill and expertise of . . . [Mr.] Krasner, considerably enhanced the probability of obtaining as large a cash settlement as was obtained"); *Steiner v. BOC Financial Corp.*, [1980 Transfer Binder] Fed. Sec. L. Rep. (CCH) & 97,656, at 98,491.4, (S.D.N.Y. 1980) ("This Court has previously recognized the high quality of work of plaintiffs' lead counsel, Mr. Krasner"). The New York Law Journal referred to Mr. Krasner as one of the "top rank plaintiffs' counsel" in the securities and class action fields. In connection with a failed 1989 management buyout of United Airlines, Mr. Krasner testified before Congress.

More recently, Mr. Krasner has been one of the lead attorneys for plaintiffs in some of the leading Federal multidistrict cases in the United States, including the IPO Litigation in the Southern District of New York, the Mutual Fund Market Timing Litigation in the District of Maryland, and several Madoff-related litigations pending in the Southern District of New York. Mr. Krasner has also been lead attorney in several precedent-setting shareholder actions in Delaware Chancery Court and the New York Court of Appeals, including *American International Group, Inc. v. Greenberg*, 965 A.2d 763 (Del. Ch. 2009) and the companion certified appeal, *Kirschner v. KPMG LLP*, Nos. 151, 152, 2010



N.Y. LEXIS 2959 (N.Y. Oct. 21, 2010); *Teachers' Retirement System of Louisiana and City of New Orleans Employees' Retirement System, derivatively on behalf of nominal defendant American International Group, Inc., v. PricewaterhouseCoopers LLP*, No. 152 (New York, October 21, 2010); *In re CNX Gas Corp. S'holders Litig.*, C.A. No. 5377-VCL, 2010 Del. Ch. LEXIS 119 (Del. Ch., May 25, 2010); *In re CNX Gas Corp. S'holders Litig.*, C.A. No. 5377-VCL, 2010 Del. Ch. LEXIS 139, (Del. Ch. July 5, 2010), appeal refused, 2010 Del. LEXIS 324, 2010 WL 2690402 (Del. 2010).

Mr. Krasner has lectured at the Practicing Law Institute; Rutgers Graduate School of Business; Federal Bar Council; Association of the Bar of the City of New York; Rockland County, New York State, and American Bar Associations; Federal Bar Council, and before numerous other bar, industry, and investor groups.

PETER C. HARRAR: *admitted;* New York; United States Court of Appeals for the Fourth Circuit and the United States District Courts for the Southern and Eastern Districts of New York. *Education:* Columbia Law School (J.D. 1984); Princeton University, Phi Beta Kappa, *magna cum laude*. Mr. Harrar is of counsel at the firm and has extensive experience in complex securities and commercial litigation on behalf of individual and institutional clients.

He has represented investment funds, hedge funds, insurance companies and other institutional investors in a variety of individual actions, class actions and disputes involving mortgage-backed securities and derivative instruments. Examples include *In re EMAC Securities Litigation*, a fraud case concerning private placements of securitized loan pools, and *Steed Finance LDC v. LASER Advisors, Inc.*, a hybrid individual and class action concerning the mispricing of swaptions.

Over the years, Mr. Harrar has also served as lead or co-lead counsel in numerous securities class and derivative actions throughout the country, recovering hundreds of millions of dollars on behalf of aggrieved investors and corporations. Recent examples are some of the largest recoveries achieved in resolution of derivative actions, including *American International Group Consolidated Derivative Litigation* (\$90 million), and *Bank of America/Merrill Derivative Litigation* (\$62.5 million).

JEFFREY G. SMITH: *admitted:* New York; California; Supreme Court of the United States; U.S. Courts of Appeals for the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth and Ninth Circuits; U.S. Tax Court; U.S. District Courts for the Southern and Eastern Districts of New York, Southern, Central and Northern Districts of California and the Districts of Colorado and Nebraska. *Education:* Woodrow Wilson School of



Public and International Affairs, Princeton University (M.P.A., 1977); Yale Law School (J.D., 1978); Vassar College (A.B., *cum laude generalis*, 1974). At Yale Law School, Mr. Smith was a teaching assistant for the Trial Practice course and a student supervisor in the Legal Services Organization, a clinical program. Member: The Association of the Bar of the City of New York; New York State and American (Section on Litigation) Bar Associations; State Bar of California (Member: Litigation Section); American Association for Justice. Mr. Smith has frequently lectured on corporate governance issues to professional groups of Fund trustees and investment advisors as well as to graduate and undergraduate business student groups, and has regularly served as a moot court judge for the A.B.A. and at New York University Law School. Mr. Smith has substantial experience in complex civil litigation, including class and derivative actions, tender offer, merger, and takeover litigation. Mr. Smith is rated "AV" by Martindale Hubble and, since its inception in 2006, has been selected as among the top 5% of attorneys in the New York City metropolitan area chosen to be included in the Super Lawyers Magazine.

ROBERT ALTCHILER: *Education:* State University of New York at Albany (B.S., Finance/Marketing, 1985); The George Washington University (JD, 1988).

Robert's practice focuses primarily in the areas of White Collar criminal investigations, corporate investigations, entertainment, litigation, and general corporate counseling. Robert's diverse practice had developed as a result of his extensive international business contacts and relationships in the entertainment world, in the United States and the United Kingdom. Robert had successfully defended cases and resolved matters spanning the most complex entertainment controversies, to virtually any imaginable complex criminal or corporate matter.

Robert has successfully defended individuals and corporations in a wide array of multifaceted investigations in areas such as mortgage fraud, securities fraud, tax fraud, prevailing wage, money laundering, Bank Secrecy Act, embezzlement, bank and wire fraud, theft of trade secrets, criminal copyright infringement, criminal anti-counterfeiting, Foreign Corrupt Practices Act (FCPA), International Traffic In Arms Regulations (ITAR), racketeering, continuing criminal enterprises, and circumvention of trade restrictions, among many others. Robert also specializes in non-criminal investigations relating to various topics, including finding money allegedly being hidden by individuals, ascertaining the identities of individuals actually involved in corporate matters (when a client believes those identities are being concealed), and



running undercover “sting” operations as part of civil and commercial litigation support.

Because of Robert's significant business contacts in the United Kingdom, and the United States, he is frequently called upon to assist clients in various forms of complex business matters, both domestic and international. Robert's clients look to him as a trusted, experienced, creative, fearless hand who has demonstrated an ability to navigate even the most difficult and desperate situations. Robert prides himself on his ability to develop aggressive creative winning strategies for his clients even when the clients believe their circumstances are hopeless.

In 1988, Robert started his legal career as a prosecutor in New York City, where he prosecuted a wide array of cases and headed up a variety of different investigations. As a prosecutor, he presented hundreds of cases to grand juries, and ran numerous investigations. In addition to trying several dozen serious cases, ranging from murder to fraud to narcotics violations, he also ran wiretap and grand jury investigations involving money laundering and other financial crimes, as well as a wiretap and investigation concerning a plot to assassinate a prominent NYC judge. Upon leaving the government, Robert began focusing on defending individuals and entities under government investigation and/or indictment. Early in private practice he defended numerous law enforcement officers under administrative and criminal scrutiny, in courts and administrative proceedings. His particular area of practice permitted Robert to further develop and strengthen his already close ties to law enforcement.

In addition to his practice, Robert has been an adjunct law professor at Pace University Law School since 1998, where he teaches trial advocacy, a course designed to teach law students how to be trial lawyers via a curriculum including the mock trial of a murder case. Robert is also a faculty member of the EATS Program run by Stetson Law School, an acclaimed program designed to teach law school trial advocacy professors creative and innovative pedagogical methods. Robert has also been a featured participant and lecturer at Cardozo Law School's acclaimed Intensive Trial Advocacy Program in New York City, and has also taught at Yale Law School. Robert's trial advocacy teaching requires him to constantly integrate new developments in communication theory and trial techniques into his teaching methods. Given the changing way students (and prospective jurors) communicate and digest information (via Twitter, Instagram and Snapchat, for example) Robert is a recognized leader at integrating neuroscientific principles into his teaching. By actively participating in the weekly trials his students



conduct in class, and by frequently demonstrating methods, he is able to continually adapt his own communication skills and integrate cutting-edge developments into his own practice.

Robert is Special Advisor to the Dean of the Mt. Sinai School of Nursing, an adjunct professor at the school, a member of the Board of Trustees and the Chair of the Board of Trustees Nominations Committee. In his role as Special Advisor, Robert is tasked with counselling the Dean on innovative pedagogical methods designed to facilitate teaching Narrative Care and other topics. Robert instructs faculty on various topics, and will be teaching courses at the school in the immediate future.

Robert graduated from the George Washington University Law School (formerly, The National Law Center), where he began his career as an advocate by conducting administrative hearings and trials during his second and third year. Prior to GW, Robert graduated with honors from the Business School at the State University of New York at Albany in 1985. He is also a 1996 graduate of the National Criminal Defense College and a 1997 graduate of the National Institute for Trial Advocacy's Harvard Teacher Training Program. Robert has also made dozens of television appearances on Fox, Court TV, and Tru TV, providing legal commentary on televised trials, and participating in discussions related to pertinent issues.

JENNY YOUNG DU PONT: *admitted:* New York; Massachusetts; District of Columbia; U.S. Supreme Court. *Education:* Princeton University (A.B. *cum laude*); Georgetown University Law Center/School of Foreign Service (J.D./M.S.F.S. *magna cum laude*); Order of the Coif; *Georgetown Law Journal*, Notes and Comments Editor.

Ms. du Pont has extensive experience representing domestic and international companies ranging in size from small privately-held firms to large public companies in a variety of corporate, investment, banking, insurance, finance, and employment matters. Ms. du Pont began her legal career at two AmLaw 100 firms in Washington, D.C. and London, U.K. and a decade later moved into in-house counsel roles, first with Plymouth Rock Assurance Corporation in Boston, MA, and later with Millennium Management, LLC in New York. Ms. du Pont also advises and presents on issues related to family businesses, family offices, and managing wealth transfer across generations.

In addition to her legal experience, Ms. du Pont has significant experience in the non-profit sector. Ms. du Pont was President and CEO of The Garden Conservancy in Cold



Spring, New York and Executive Director of Miracle House of New York, Inc., and has acted a legal and strategic advisor to a variety of for profit and non-profit entities in New York. For more than 20 years, Ms. du Pont also has been a director, trustee, and officer for a broad range of educational, cultural, scientific, and service non-profit entities. Ms. du Pont served for a number of years as a Trustee of Phillips Exeter Academy, in Exeter, NH, and as a member and Vice Chair of the Warrant Committee for the Town of Dover in Massachusetts. She is currently a Director of the American Friends of the British Museum and of the American Patrons of the National Galleries and Library of Scotland, serves as an Advisory Council member for the Untermyer Gardens Conservancy in Yonkers, NY and the Sing Sing Prison Museum Master Narrative Project, in Ossining, NY, and is chair of the Advisory Council for the Conservation Law Foundation in Boston, MA.

KATE MCGUIRE: *admitted:* New York; U.S. District Courts for the Southern and Eastern Districts of New York. *Education:* University of California at Santa Cruz (B.A. 1995), Georgetown University Law Center (J.D., 1998); Member: *Georgetown Immigration Law Journal*.

Ms. McGuire has extensive experience prosecuting complex litigation. Her work encompasses consumer and data protection class actions, securities class and derivative shareholder cases and nationwide antitrust suits.

She is a member of the Firm's Consumer Protection practice group and, in that context, has worked intensively to protect classes of consumers under a range of state and federal laws. Recently, she served as a member of the co-lead counsel team in *Simerlein et al. v. Toyota Motor Corporation et al.*, 3:17-CV-01021-VAB (D. Conn.), representing more than a million owners of Sienna minivans in litigation that settled for class-wide benefits valued at between \$30 and \$40 million. Presently, she serves on a team representing plaintiffs in multi-district litigation against Fisher-Price and Mattel, relating to Rock 'n Play infant sleepers which are alleged to be dangerous and misleadingly marketed. She has also served as a member of the firm's lead or co-counsel teams in other consumer protection cases, including litigation based upon allegations of misrepresentations and omissions concerning the purported safety of electronic cigarettes.

Ms. McGuire has also represented plaintiffs with respect to the protection of their civil rights. For example, she represented a blind plaintiff in a suit under the Americans with Disability Act against a major trading online trading company, and represented a



group of minority business owners in federal civil rights litigation concerning disparate treatment which settled for significant governance therapeutics.

CARL MALMSTROM: *admitted:* Illinois; Minnesota; United States Court of Appeals for the Seventh Circuit; Northern and Southern Districts of Illinois; Northern District of Indiana; District of Minnesota; Eastern District of Missouri; Western District of New York. *Education:* University of Chicago (A.B., Biological Sciences, 1999; A.M., Social Sciences, 2001); The University of Hawai'i at Manoa (M.A., Anthropology, 2004); Loyola University Chicago School of Law (J.D., 2007). Prior to joining the firm, Mr. Malmstrom worked for the City of Chicago Department of Law in the Municipal Prosecutions Division; he is a member of the Chicago Bar Association. Mr. Malmstrom has substantial experience litigating complex class actions in several practice areas, including antitrust, consumer fraud, and data security. Representative cases in which he has represented plaintiffs include *Bokelman et al. v. FCH Enterprises, Inc.*, Case No. 1:18-cv-209 (D. Haw.), involving customers of Zippy's Restaurants in Hawaii whose personal data was stolen by hackers, *In re: Experian Data Breach Litigation*, Case No. 8:15-cv-1592 (C.D. Cal.); *Freeman-Hargis v. Taxi Affiliation Services, LLC*, Case No. 2016-CH-02519 (Cir. Ct. Cook Cty.), involving customers of several taxi services in Chicago who were unlawfully charged fees for using credit cards in taxis.

ASSOCIATES

PATRICK DONOVAN: *admitted:* New York; U.S. District Courts for the Southern and Eastern Districts of New York; United States Court of Appeals for the Second and Fourth Circuits. *Education:* Iona College (B.A., Business Management, 2007); St. John's University School of Law (J.D. 2011). Mr. Donovan's primary areas of focus are securities, derivative and M&A litigation.

LILLIAN GRINNELL: *admitted:* New York; United States District Courts for the Southern and Eastern Districts of New York; United States Court of Appeals for the Federal Circuit. *Education:* Bryn Mawr College (A.B., Philosophy and Political Science, 2016); New York University Law School (J.D. 2019). Prior to joining Wolf Haldenstein, Ms. Grinnell served as an Excelsior Service Fellow with the Consumer Protection and Financial Enforcement Division of the NYS Department of Financial Services.

ROURKE DONAHUE: *admitted:* New York. *Education:* University of North Carolina at Chapel Hill (B.A., Philosophy, 2017), Honors Program; Georgetown University Law Center (J.D. 2020). Prior to joining the firm, Mr. Donahue clerked for the Hon. Timothy P. Lydon, Presiding Judge of Equity, at the New Jersey Superior Court in Trenton, New



Jersey. In law school, Mr. Donahue interned at the Department of Justice's Civil Division, Christie's Auction House, and Manhattan Legal Services and served as the Administrative Editor of the *Georgetown Environmental Law Review*.

ALEX J. TRAMONTANO: *admitted:* California; U.S. District Courts for the Southern, Central and Eastern Districts of California; United States Court of Appeals for the Ninth Circuit. *Education:* University of Massachusetts, Amherst (B.A., Political Science and Legal Studies, *cum laude*, 2008); California Western School of Law (J.D., 2011). Mr. Tramontano's primary areas of focus are securities, anti-trust, unfair and deceptive practices, civil rights and data breach related class actions. Prior to joining Wolf Haldenstein, Mr. Tramontano worked as an associate at an AmLaw 100 firm, as well as other regional law firms in southern California. Mr. Tramontano has over a decade of litigation experience defending and prosecuting complex actions on behalf of individuals and businesses in both Federal and State courts. Mr. Tramontano began his legal career as a Police Cadet at the University of Massachusetts Amherst. He went on to law school and joined the San Diego District Attorney's Office as a Certified Legal Intern before transitioning to private practice.

FERDEZA ZEKIRI: *admitted:* California; U.S. District Court for the Central District of California. *Education:* Gonzaga University (B.A., Criminal Justice and Psychology, 2017); University of California, Los Angeles School of Law (J.D. 2020). In law school, Ms. Zekiri served as a Managing Editor of the UCLA School of *Law's Journal of Environmental Law & Policy*, and worked as a research assistant for the UCLA Law Library. Prior to joining Wolf Haldenstein, Ms. Zekiri was an associate attorney at Talkov Law where she primarily focused on real estate litigation.

PARAPROFESSIONALS

GREGORY STONE: *Education:* University of Pennsylvania (B.S., Economics, 1979); University of California, Los Angeles (MBA, 1983). Mr. Stone is the Firm's Director of Case and Financial Analysis. He assists partners and associates in identifying and researching potential federal class action securities, derivative litigation and merger & acquisition (M&A) litigation. Mr. Stone has worked with leading securities class action firms in an analytical and investigative role for over 18 year throughout the United States, and has an extensive professional background in the accounting and investment professions. He plays a key role in new case development, including performing investigations into potential securities fraud class actions, derivative and other



corporate governance related actions. By using a broad spectrum of financial news and legal industry research tools, Mr. Stone analyzes information that helps identify and support the theories behind the firm's litigation efforts.

NON-DISCRIMINATION POLICIES

Wolf Haldenstein does not discriminate or tolerate harassment against any employee or applicant because of race, creed, color, national origin, sex, age, disability, marital status, sexual orientation, or alienage or citizenship status and designs its hiring practices to ensure that minority group members and women are afforded equal employment opportunities without discrimination. The Firm is in compliance with all applicable Federal, State, County, and City equal employment opportunity laws.

Wolf Haldenstein is proud of its long history of support for the rights of, and employment opportunities for, women, the disadvantaged, and minority group persons, including the participation in civil rights and voter registration activities in the South in the early 1960s by partners of the Firm; the part-time employment of disadvantaged youth through various public school programs; the varied *pro bono* activities performed by many of the Firm's lawyers; the employment of many women and minority group persons in various capacities at the Firm, including at the partner level; the hiring of ex-offenders in supported job training programs; and the use of minority and women-owned businesses to provide services and supplies to the Firm.

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EXHIBIT F



FIRM PROFILE

The Lyon Firm is a Cincinnati, Ohio based law firm, representing individuals nationwide in class action and product liability litigation. The Firm also has an office in St. Louis, Missouri. Joseph M. Lyon is the founder and sole member of the Firm that includes four attorneys and three staff members. The attorneys are licensed in Ohio, Kentucky, Illinois, California, Missouri, and Arizona, as well as numerous federal courts.

Over the past 20 years, The Firm has represented thousands of individual clients in both federal and state court consolidated actions. Mr. Lyon has also participated as Class Counsel, on Executive and Steering Committees, and as plaintiffs' counsel on over a hundred class actions. These complex cases have involved a diverse range of legal, scientific, regulatory, and public policy issues involving medical devices, pharmaceutical products, antitrust, toxic consumer products, and data privacy matters.

The Firm has a long history of successful MDL work having represented plaintiffs in over forty-eight (48) Multi-District Litigations ("MDL"). Firm members have worked alongside many of the leading Plaintiff Firms on leadership committees to develop common benefit evidence related to general liability and general causation, as well as case specific causation evidence. Moreover, the Firm has participated in large scale e-discovery corporate document reviews, FDA regulatory document reviews, 30(b)(6) depositions, treater case specific depositions, expert disclosures and discovery, and bellwether trial teams.

In addition, Firm members have dedicated much of their careers to representing individual plaintiffs in catastrophic single event litigation. This rewarding work has provided families with answers to difficult questions of liability and has resulted in numerous life-changing settlements that have assisted with long-term medical needs and compensation for significant financial and personal loss. The single event litigation has required the Firm to consistently learn new subject matters, develop impactful case themes, and design unique discovery plans. The single events cases have involved a variety of legal, medical, and engineering issues arising from automotive product defects, firearm defects, medical malpractice, workplace injuries, consumer product toxic exposure, environmental contamination, benzene exposure, and asbestos exposure.

More recently, the Firm has focused on privacy class action matters involving both data security issues ("Data Brach") and unauthorized tracking and data sharing ("Pixel") litigation. Many of these matters involve industry-wide failures in the health care and financial services industries that have created an unprecedented loss of personal privacy and consumer value. The Firm has been intimately involved in the law and briefing and developing new case law in this innovative field of law throughout the country. Through all of the practices, the Firm work has contributed to positive corporate change and accountability, resulting in safer products, more secure data privacy, and hundreds of millions of dollars of returned value to Plaintiffs and Consumers nationwide.



FIRM PROFILE

CURRICULUM VITAE

JOSEPH M. LYON

Professional Experience

- The Lyon Firm, A Law Corporation; Founder & Sole Member (9/2006-Present)
- Lopez, Hodes, Restaino, Milman & Skikos, A Law Corp.; Associate

Admissions to Practice Law

- Ohio
- Kentucky
- United States District Court, Southern District of Ohio
- United States District Court, Northern District of Ohio
- United States District Court, Colorado
- United States District Court, Northern District of Illinois
- United States District Court, Eastern District of Kentucky
- United States District Court, Western District of Kentucky
- United States District Court, Eastern District of Michigan
- United States District Court, Eastern District of Wisconsin
- United States District Court, Western District of Wisconsin
- United States District Court, Nebraska
- United States District Court, North Dakota
- United States Court of Appeals, 6th Circuit

Education

- Chicago Kent College of Law, Illinois Institute of Technology, Chicago, IL, J.D. (2002)
 - Honors:
 - Federal Judicial Externship: United States District Court for the Northern District of Illinois, Judge William Hibbler; (January 2001-September 2001)
 - Law Review: Member of Chicago-Kent Journal of International and Comparative Law.
- Loyola University, Baltimore MD, B.A. in Political Science (1999)
 - International Study:
 - Katholieke Universiteit, Leuven, Belgium (9/1997-6/1998)
 - St. Louis University, Madrid, Spain (9/1998-12/1998)



FIRM PROFILE

Representative Lead Class Counsel Experience:

- ***Henderson v. Reventics, LLC***, Case No. 1:23-cv-00586 (D. Colo.): Appointed co-lead class counsel in consolidated data breach action impacting over 4.2 million healthcare consumers. Motion practice is ongoing.
- ***Suhr v. DC Health Link***, Case No. 1:23-cv-00694 (D.D.C.): Appointed co-lead class counsel in highly publicized consolidated action involving a data breach impacting the health insurance marketplace for the District of Columbia. Motion practice is ongoing.
- ***In re: NCB Management Services, Inc. Data Breach Litigation***, Case No. 2:23-cv-01236 (E.D. Pa): Appointed interim co-lead class counsel in consolidated action involving a data breach impacting over 1 million consumers. Motion practice is ongoing.
- ***Migliaccio v. Parker Hannifin Corp.***, Case No. 1:22-cv-00835 (N.D. Ohio): Appointed co-lead class counsel by Judge Polster in data breach class action against multi-national manufacturer impacting 115,843 current and former employees; Final Approval granted for a \$1,750,000.00 non-reversionary common fund.
- ***Rodriguez v Christus Health.***, Case No. 3:22-cv-02899 (N.D. Tx.): Appointed interim co lead class counsel in healthcare data breach impacting over 700,000 patients. Motion practice is ongoing.
- ***Hawkins v. Navy Federal Credit Union***, Case No: 1:19-cv-01186 (E.D. Va.): Appointed co-lead class counsel in TCPA class action; Final Approval granted for nationwide class and non-reversionary common fund settlement of \$9,250,000 providing monetary compensation for class of over 66,000.
- ***Forslund v RR Donnelly***, Case No: 1:22-cv-04260 (N.D. Ill.): Appointed interim co lead class counsel in healthcare data breach impacting over 80,000 consumers; Motion for Preliminary Approval is pending.
- ***Devine v. Health Aide of Ohio***, Case No: cv-21-948117 (Cuyahoga County, Ohio): Appointed co-lead class counsel in consolidated data breach class action involving 141,149 medical patients; Final Approval granted for a claims made nationwide settlement providing monetary benefits and additional identity theft protection valued at over \$12.5 million.
- ***In Re Southern Ohio Health System Data Breach***, Case No: A-2101886 (Hamilton County, Ohio): Appointed co-lead counsel in consolidated data breach class action impacting two Ohio hospital systems and 420,433 patients' healthcare information; Final Approval granted for nationwide non-reversionary common fund settlement of \$1,950,000.00.
- ***Engle v. Talbert House***, No. A 2103650 (Hamilton County, Ohio): Appointed co-lead class counsel in a data breach class action impacting over 300,000 medical patients; Final Approval granted for nationwide claims made settlement providing monetary benefits and additional identity theft protection with claimed value at \$1,171,000.00 and offered class value of \$49,840,000.00.



FIRM PROFILE

- ***Tucker v. Marietta Area Health Care, Inc.***, No. 2:22-cv-00184 (S.D. Ohio): Serving as interim co-lead in consolidated data breach class action involving ransomware attack on Ohio hospital that compromised the PII and PHI of 216,478 patients; Preliminary Approval pending that would provide for a \$1,750,000.00 non-reversionary common fund.
- ***Rodriguez v. Professional Finance Company, Inc.*** Case No: 22-cv-01679 (D. Colo.): Appointed interim co-lead class counsel in consolidated action involving a data breach impacting over 2 million consumers.
- ***Bae v. Pacific City Bank***, No. 21STCV45922 (Los Angeles County Superior Court, Cal.): Appointed as interim co-lead class counsel in a data breach class action involving 15,037 customers; Preliminary Approval granted establishing a non-reversionary common fund of \$700,000.00.
- ***Miranda v. Xavier University***, No. 1:20-cv-00539 (S.D. Ohio): Appointed as interim co-lead class counsel for nursing students in a class action arising from the breach of contract to provide clinical education and experience through the coursework; Preliminary Approval granted for a \$700,000.00 non-reversionary common fund for tuition reimbursement.
- ***Wade v. U.S. Bank National Association***, Case No: A-1501522 (Hamilton County, Ohio): Appointed co-lead class counsel in state mortgage satisfaction class action; Final approval for non-reversionary common fund of \$1,750,000.00 providing monetary compensation to a class of over 45,000.00 mortgage holders.

Executive & Steering Committee Experience:

- ***Miller v NextGen Healthcare, Inc.***, Case No: 1:23-cv-02043 (N.D. Ga.): Appointed to Plaintiff's Steering Committee in consolidated action involving a data breach impacting over a million consumers. Preliminary pleadings and case management issues are ongoing.
- ***Anderson v. Fortra, LLC***, Case No: 23-cv-533 (D. Minn.): Appointed to Plaintiffs Executive Committee in consolidated action in a data breach impacting over 160 companies and millions of consumers. Motion practice is ongoing.
- ***Desue, et al. v. 20/20 Eye Care***, Case No: 21-CV-61275 (S.D. Fla.): Appointed to Plaintiffs' Executive Committee in data breach class action impacting 3.2 million patients' personal and healthcare information. Motion to Dismiss denied in part and granted in part; Final Approval granted for a \$3,000,000 non-reversionary common fund.
- ***Baker, et al. v. Parkmobile, LLC***, Case No: 1:21-CV-2182 (N.D. Ga): Appointed to Plaintiffs' Steering Committee in data breach class action impacting the personal information of over 21 million customers. Discovery is ongoing.
- ***MDL 1748 In Re: Testosterone Replacement Therapy Products Liability Litigation.***
Assisted in centralization and consolidation of over 4,000 cases before Judge Kennelly in the Northern District of Illinois. Performed document review and coding on regulatory and custodial files related to deceptive and off label marketing claims and adverse events; Developed consulting



FIRM PROFILE

relationship with leading experts and created medical literature summaries; Organized deposition summaries for bellwether trials.

- **MDL 2327 *In Re: Ethicon, Inc. Pelvic Repair Systems Product Liability Litigation.*** Performed document review and coding on custodial files on product design, labelling, opinion leaders, adverse events, and regulatory approval; Assisted in preparation for corporate 30(b)(6) depositions, opinion leader depositions, and bellwether trials.
- **In Re: Actos (Pioglitazone) Products Liability Litigation. *Wisniewski v. Takeda Pharmaceuticals et al.*** (Case No. 120702272) Co-Counsel for bellwether trial in Philadelphia County. Jury awarded \$2,340,000.00 in compensatory damages.
- **MDL 1598 *In Re: Ephedra Products Liability Litigation:*** Coordinated GNC document review, assisted in deposition preparation for 30(b)(6) depositions, and participated in bellwether trial support.

Representative Current Multi District Litigation (Case Specific Work):

- MDL 3044 In Re: Exactech Products Liability Litigation
- MDL 2738 In Re: Johnson & Johnson Talcum Powder
- MDL 2885 In Re: 3M Product Liability Litigation
- MDL 3004 In Re: Paraquat Product Liability Litigation
- MDL 2974 In Re: Paragard IUD Product Liability Litigation
- In Re Pam Cooking Spray Consolidated Actions (Cook County, IL)

Representative Past Multi District Litigation (Case Specific Work):

- MDL 2741 In Re: Roundup Products Liability Litigation
- MDL 2441 In Re: Stryker Rejuvenate and ABG II Hip Implant Litigation
- MDL 2768 In Re: Stryker LFIT V-40 Femoral Head Product Liability Litigation
- MDL 2391 In Re: Biomet M2A Magnum Hip Implant Products Liability Litigation
- MDL 2734 In Re: Abilify (Aripiprazole) Products Liability Litigation
- MDL 2244 In Re: Depuy Orthopaedics, Inc. Pinnacle Hip Implant Litigation
- MDL 1748 In Re: Testosterone Replacement Therapy Products Liability Litigation.
- JCCP 4887 In Re: Essure Product Cases
- MDL 2591 In Re: Syngenta AG MIR 162 Corn Litigation
- MDL 2000 In Re: Yaz/ Yasmin/ Ocella Litigation (Philadelphia Consolidated Actions)
- MDL 2197 In Re: Depuy Orthopaedics, Inc., ASR Hip Implant Products Liability Litigation
- MDL 1871 In Re: Avandia Marketing, Sales Practices and Products Liability Litigation
- MDL 1598 In Re: Ephedra Products Liability Litigation
- MDL 1905 In Re: Medtronic, Inc. Sprint Fidelis Leads Products Liability Litigation
- MDL 1769 In Re: Seroquel Products Liability Litigation
- MDL 1928 In Re: Trasyolol Products Liability Litigation
- MDL 1785 In Re: Bausch & Lomb Inc. Contact Lens Solution Products Liability Litigation
- MDL 1657 In Re: Vioxx Marketing, Sales Practices and Products Liability Litigation
- MDL 2226 In Re: Darvocet, Darvon, and Propoxyphene Products Liability Litigation
- MDL 2327 In Re: Ethicon, Inc. Pelvic Repair Systems Products Liability Litigation
- MDL 2325 In Re: AMS, Inc., Pelvic Repair System Products Liability Litigation



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- MDL 2187 In Re: C.R. Bard, Inc., Pelvic Repair System Products Liability Litigation
- MDL 2387 In Re: Coloplast Corp. Pelvic Support Systems Products Liability Litigation
- MDL 2326 In Re: Boston Scientific Corp. Pelvic Repair Systems Products Liability Litigation
- MDL 2299 In Re: Actos (Pioglitazone) products Liability Litigation
- MDL 1842 In Re: Kugel Mesh Hernia Patch Products Liability Litigation
- MDL 1708 In Re: Guidant Implantable Defibrillators Product Liability Litigation
- MDL 1905 In Re: Medtronic Sprint Fidelis Leads Product Liability Litigation
- MDL 1748 In Re: Testosterone Replacement Therapy Products Liability Litigation
- MDL 2767 In Re: Mirena IUS- Products Liability Litigation
- MDL 2418 In Re: Plavix Products Liability Litigation
- MDL 2775 In Re: Smith and Nephew BHR Implant Products Liability Litigation
- MDL 1763 In Re: Human Tissue Products Liability Litigation
- In Re Depo Provera: New Jersey Consolidated State Litigation

Representative Single Event Settlements

- ***Estate of Gabrielle Walker v. The Toledo Hospital*** (2021) Lucas County, Ohio, Case No: G-4801. Lead counsel in medical malpractice/ wrongful death case involving allegations of negligent discharge of a suspected child abuse patient. The discharge resulted in returning the child to the suspected home environment where she sustained terminal injuries that evening. The four years of litigation entailed lead counsel taking over twenty depositions, preparing and disclosing four liability experts, filing several motions to compel discovery (ESI and 30B5 Witnesses) that the Court granted, and obtaining the Court's denial of two motions for summary judgment. The parties entered a confidential settlement two months before trial after months of negotiation.
- ***Murphy v. University Hospital*** (2019) Hamilton County, Ohio A-18-03027. Lead Counsel in medical malpractice case involving the alleged misdiagnosis of cancer and unnecessary operation to remove 17 lymph nodes. The patient was cancer free and the unnecessary surgery left her with permanent lymphedema. Confidential Settlement following disclosure of expert reports on liability, causation and life care plan.
- ***Gray v. Graham KTM Sport Motorbikes*** (2018) N. Dist. of Mississippi Case No: 3:17-cv-092. Lead counsel in automotive product liability matter involving a recalled accelerator of a motor-cross bike. The recall was noticed due to the accelerator sticking and resulting in unintended acceleration. Plaintiff experienced this event losing control, whereby the bike fell onto him as he attempted to jump from the out-of-control bike. His arm was trapped in the rear wheel resulting in catastrophic amputation. Confidential settlement following limited discovery and disclosure of life care plan.
- ***Harrell et al. v. WWS Associates*** (2018) Hamilton County, Ohio, Case No: A1600701. Lead counsel in lead exposure case involving the secondary exposure of two minor children to industrial lead dust. It was alleged the children were poisoned when their father returned home from a recycling job that did not provide adequate protective clothing or require showers before returning



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home. The children suffered neurological injuries related to elevated lead levels. Confidential settlement following factual discovery and disclosure of expert reports on causation and damages.

- ***Lemon v. FMK Firearms, Inc. et al.*** (2016) E. Dist. of KY Case No: 2:15-cv-00128. Lead Counsel in complex product liability case involving a defective handgun that was subject to a recall due to drop-fire risks. Plaintiff suffered severe injuries including compartment syndrome when gun was accidentally dropped and fired. Confidential settlement following initial factual discovery.
- ***Waters v. F&P America MFG, Inc.*** (2016) Miami County, Ohio Case No: 15-103. Lead Counsel. Workplace intentional tort claim involving a corporate policy to circumvent a perimeter cage designed to protect workers from hydraulic equipment malfunction. Plaintiff suffered catastrophic amputation of multiple fingers when a machine misfired. Confidential settlement following corporate depositions and while motion for summary judgment on employer intentional tort and workers compensation immunity issues was pending.
- ***Estate of Ralph Jamison v. Continental Appliances, Inc.*** (2013) Adams County, Ohio Case No. CVB 20120499. Lead Counsel in complex Product Liability case involving a defective propane wall heater that resulted in severe burn injuries and wrongful death. Confidential Settlement following motion to compel documents was granted and 30(b)(5) deposition.
- ***Estate of Joseph Ponsi v. RCD Sales, Inc.*** (2012) Ashland County, Ohio Case No. 12-CVI-017). Lead Counsel in dealership negligence involving the sale of a recreational towing vehicle that exceeded towing capacity of tow vehicle resulting in rollover and wrongful death. Confidential settlement following multiple depositions on liability and disclosure of expert reports.
- ***Armesia Thomas v. General Motors et al.*** (2011) E. Dist. of KY Case No. 08-228-ART. Lead Counsel in complex Product Liability action involving claims of defective seat belt design resulting in catastrophic spinal cord injury to a 19-year-old female. Confidential settlement with General Motors and Takata Defendants following full factual discovery and disclosure of expert reports and life care plan.
- ***Michael Urchak v. Donnell Ford Lincoln Mercury of Salem, Inc.*** (2010) Mahoning County, Ohio Case No 08-CV-3700). Lead Counsel in dealership negligence causing mechanical failure and loss of control of vehicle resulting in spinal cord injury. Confidential Settlement following full factual discovery and disclosure of expert reports and life care plan.
- ***Charles & Jennifer Briner, Individually and on Behalf of Christopher Briner, A Minor v Daimler Chrysler Corporation.*** (2007) (Richland County, Ohio Case No. 05-CV-371). Co-lead counsel in complex product liability action involving claims of defective seat belt buckle resulting in inadvertent buckle release and catastrophic brain injury to a minor. Confidential settlement two weeks before trial following full factual discovery and expert disclosures on liability and life care plan.



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- ***Marlene Lewis et al v. Alex Saba, M.D.*** (2006) Hamilton County, Ohio, Case No. A0501599. Co-lead counsel in medical malpractice claims arising from the failure to diagnose breast cancer resulting in cancer progression, loss of survival, and additional invasive medical care. Confidential Settlement a few months before trial following full discovery and expert disclosures on liability and damages.

Memberships & Board Positions

Attorneys Information Exchange Group (2006- Present)
National Trial Lawyers (2009-Present)
American Association for Justice (2003-Present)
American Association for Justice, Trial Magazine, Peer Review Panel (2018)
American Association for Justice, TRT Litigation Group Co-Chair (2014-2019)
American Association for Justice Litigation Group Leaders Council (2014- 2019)
American Association for Justice, Member (2003- Present)
American Association for Justice, “New Lawyers Board of Governors” (2004-2013)
Ohio Association for Justice (2003-2007; 2013-Present)
Ohio Association for Justice, Product Liability Section Chair (2014-2015)

Publications & Presentations

- *Mass Torts in State Court*. OAJ Summer Convention, Columbus, OH (2017)
- *Managing Client Expectations*. OAJ Summer Convention. Columbus, OH (2015)
- *The Wheels of Justice: Mass Torts in State Courts*. OAJ Quarterly. Product Liability Section. (2015)
- *“Low T”- The Creation of a Disease*. OAJ Quarterly. Product Liability Section. (2014)
- *Ethical Aspects of Mass Tort Marketing*. AAJ Summer Convention. Baltimore, MD (2014)
- *Testosterone Replacement Therapy MDL Update and Case Criteria*. AAJ Summer Convention. Baltimore, MD (2014)
- *Testosterone Replacement Therapy --Specific Causation*. AAJ Mass Tort Update Seminar. San Diego, CA (2014)
- *Testosterone Replacement Therapy –MDL Case Management Orders*. AAJ Mass Tort Update Seminar. Santa Barbara, CA (2014)
- *Testosterone Replacement Therapy --Causes of Action*. AAJ Emerging Mass Tort Seminar. Louisville, KY (2014)
- *Parallel Claims & Reporting Requirements: New Motivation for Drug Manufacturers to Give Adequate Warning*. OAJ Quarterly. Product Liability Section (2013)



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- *Where to Begin Your Search for the Smoking Gun: Organizing Your Strategy and Informal Discovery.* National Business Institute Seminar. Cincinnati, OH (2010)
- *Written Discovery Strategies.* National Business Institute Seminar. Cincinnati, OH (2010)
- *A Separate Piece in Seeking Justice: Civil Themes and Skills in Public Defense.* AAJ, Criminal Law Section, Vol. 16, No.2 Winter (2009)
- *The Weight of Expert Testimony.* National Business Institute Seminar. Cincinnati, OH (2009)
- *Punitive Damages: Current Trends and Strategies.* National Business Institute Seminar. Cincinnati, Ohio (2009)
- *Jury Selection: Your First Trial.* Northern Kentucky College of Law. (2009)
- *Utilizing ATLA Resources for Law Students.* University of Cincinnati College of Law. (2003)

Honors & Awards

- Super Lawyers (Class Action and Mass Torts) (2018, 2019, 2020, 2021, 2022, 2023, 2024)
- Super Lawyers, Rising Stars (Class Action and Mass Torts) (2012, 2013, 2014, 2015, 2016)
- National Trial Lawyers: Top 100 Trial Lawyers for Ohio (2009-Present)
- National Trial Lawyers: Top 20 Mass Tort Lawyers (2018- Present)

EXHIBIT 3

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA**

IN RE: NOVANT HEALTH, INC.

Civil Action No. 1:22-cv-00697

Hon. Catherine C. Eagles

**DECLARATION OF BRANDON
SCHWARTZ REGARDING
PROPOSED NOTICE PLAN AND
ADMINISTRATION**

I, Brandon Schwartz, declare as follows:

1. I am a Director of Legal Notice preparing this Declaration for the proposed Class Administrator, Postlethwaite & Netterville, APAC (“P&N”)¹, a full-service administration firm providing legal administration services, including the design, development, and implementation of impartial and complex legal notification programs. We were asked by Counsel to develop and execute the proposed Notice Plan and to administer the claims process in the above-referenced matter (the “Action”)². The following statements are based on my personal knowledge as well as information provided by other experienced employees working under my supervision.

2. We have undertaken the creation and execution of notice plans, along with the administration of diverse class action and mass action settlements. Our expertise extends across a wide array of subject matters, encompassing but not limited to, data breach, privacy, products liability, consumer, mass tort, antitrust, insurance, and healthcare. The accomplished members of

¹ As of May 21, 2023, the Directors & employees of Postlethwaite & Netterville (P&N), APAC joined EisnerAmper as EAG Gulf Coast, LLC. Where P&N is named or contracted, EAG Gulf Coast, LLC employees will service the work under those agreements. P&N’s obligations to service work may be assigned by P&N to Eisner Advisory Group, LLC or EAG Gulf Coast, LLC, or one of Eisner Advisory Group, LLC’s or EAG Gulf Coast, LLC’s subsidiaries or affiliates.

² All capitalized terms not otherwise defined in this document shall have the meaning ascribed to them in the Settlement Agreement.

our team possess broad experience in the design and implementation of notice procedures involving various aspects of class certification and settlement programs.

EXPERIENCE

3. Drawing upon over 15 years of extensive expertise in class action, advertising, media, and marketing, I have cultivated comprehensive noticing solutions encompassing all facets of class action certification and settlement notice programs. My proficiency extends to an understanding of email and postal distribution methodologies, reach and frequency analysis, strategic media generation, meticulous demographic research, media plan design, effective media development and procurement, commercial and video production creation, and the adept application of best practices for effective social media outreach.

4. I have designed, implemented, and managed notice campaigns for more than 100 cases. Some of my notice plans include: *Rivera, et al. v. Google LLC*, No. 2019-CH-00990 (Cir. Ct. Cook County); *Baldwin et al. v. National Western Life Insurance Company*, No. 2:21-cv-04066 (W.D. Mo.); *Hadley v. Kellogg Sales Co.*, No. 5:16-cv-04955 (N.D. Cal.); *Miracle-Pond, et al. v. Shutterfly, Inc.*, No. 2019-CH-07050 (Cir. Ct. Cook County); *Siddle, et al. v. The Duracell Company, et al.*, No. 4:19-cv-00568 (N.D. Cal.); *Jones v. Monsanto*, No. 4:19-cv-00102 (W.D. Mo.); and *In re: Interior Molded Doors Indirect Purchaser Antitrust Litigation*, No. 3:18-cv-00850 (E.D. Va.). A description of my experience is attached as **Exhibit A**.

5. The courts have consistently acknowledged both the credibility of our team (curriculum vitae attached hereto as **Exhibit B**) and the effectiveness of my class action notice plans. Illustrative court opinions affirming the sufficiency of our notice plans include:

a. On February 17, 2023, in the Final Approval Order in *Pagan, et al. v. Faneuil, Inc.*, No. 3:22-cv-297 (E.D. Va.), Judge Robert E. Payne ruled:

The Court finds that the Notice Program, set forth in the Settlement Agreement and effectuated pursuant to the Preliminary Approval Order, was the best notice practicable under the circumstances, was reasonably calculated to provide and did provide due and sufficient notice to the Settlement Class of the pendency of the Action, certification of the Settlement

Class for settlement purposes only, the existence and terms of the Settlement Agreement, and their right to object and to appear at the final approval hearing or to exclude themselves from the Settlement Agreement, and satisfied the requirements of the Federal Rules of Civil Procedure, the United States Constitution, and other applicable law.

- b. In the matter *Rivera, et al. v. Google LLC*, No. 2019-CH-00990 (Cir. Ct. Cook County), Judge Anna M. Loftus ruled on September 28, 2022:

The Court finds that the Settlement Administrator has complied with the approved notice process as confirmed by its Declaration filed with the Court. The Court further finds that the Notice plan set forth in the Settlement as executed by the Settlement Administrator satisfied the requirements of Due Process and 735 ILCS 5/2-803. The Notice plan was reasonably calculated and constituted the best notice practicable to apprise Settlement Class Members of the nature of this litigation, the scope of the Settlement Class, the terms of the Settlement, the right of Settlement Class Members to object to the Settlement or exclude themselves from the Settlement Class and the process for doing so, and of the Final Approval Hearing. Accordingly, the Court finds and concludes that the Settlement Class Members have been provided the best notice practicable under the circumstances, and that the Notice plan was clearly designed to advise Settlement Class Members of their rights.

- c. Additionally, on June 16, 2022, in the Order in *Baldwin et al. v. National Western Life Insurance Company*, No. 2:21-cv-04066 (W.D. Mo.), Judge Willie J. Epps, Jr ruled:

The Court finds that such Notice as therein ordered, constituted the best possible notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Settlement Class Members in compliance with the requirements of Rule 23(c)(2).

OVERVIEW

6. Based on our review of the Settlement Agreement, the proposed Settlement Class consists of:

All individuals residing in the United States who Defendant identified as potentially having their personal or health-related information disclosed to a third party because of Defendant's use of Tracking Tools on Defendant's websites or MyChart patient portal between May 1, 2020 and August 12, 2022. Excluded from the Class are (i) Defendant,

any entity in which Defendant has a controlling interest, and Defendant's affiliates, parents, subsidiaries, officers, directors, legal representatives, successors, subsidiaries, and assigns; (ii) any judge, justice, or judicial officer presiding over the Litigation and the members of their immediate families and judicial staff; and (iii) any individual who timely and validly excludes themselves from the Settlement.

7. Excluded from the Class are (i) Defendant, any entity in which Defendant has a controlling interest, and Defendant's affiliates, parents, subsidiaries, officers, directors, legal representatives, successors, subsidiaries, and assigns; (ii) any judge, justice, or judicial officer presiding over the Litigation and the members of their immediate families and judicial staff; and (iii) any individual who timely and validly excludes themselves from the Settlement.

8. The objective of this Notice Plan is to ensure the delivery of the most feasible and effective notice to the Class, in compliance with the provisions set forth in Fed. R. Civ. P. 23. Consequently, it is my opinion that the ensuing Notice Plan satisfies due process standards and adheres to the recommendations in the *Judges' Class Action Notice and Claims Process Checklist and Plain Language Guide*.³

PROPOSED NOTICE PLAN

9. We've been informed by Class Counsel that the estimated Settlement Class size is approximately 1,362,165 individuals. Upon preliminary approval of the Settlement Agreement, Defendant will provide a list of records comprised of the names, last known mailing addresses, and, where available, email addresses of Settlement Class Members known to the Defendant ("Class Notice List").

10. The proposed Notice Plan provides that individual notice be sent via email ("Email Notice") to all Class Members identified in the Class Notice List for whom a facially valid email address is available and/or via direct notice via postal mail ("Postcard Notice").

Direct Email Notice

11. The Short Form Notice, attached as Exhibit C of the Settlement Agreement, will be formatted for email distribution and created using embedded html text format presenting a

³ <https://www.fjc.gov/content/301350/illustrative-forms-class-action-notices-notice-checklist-and-plain-language-guide>

user-friendly and easily readable layout that avoids the inclusion of tables, graphs or other elements that may increase the likelihood of the email landing in SPAM folders and/or being blocked by Internet Service Providers (“ISP” or “ISPs”). Additionally, we are committed to adhering to email industry best practices, incorporating essential elements such as “unsubscribe” links, Administrator contact information, and maintaining multiple IP addresses with strong sender reputations.⁴

12. To safeguard the integrity and optimize the deliverability of the Email Notice, all emails undergo a hygiene and verification process. This process entails deduplication, syntax validation, detection and correction of misspelled domains, domain validation, and risk validation. Emails that pass the hygiene and verification process will be batched into small groups and sent over multiple days to decrease the likelihood of being erroneously flagged as bulk junk email. We will monitor and report to the Parties and the Court all email delivery attempts. In instances where an email is returned as undeliverable, commonly known as a ‘bounce,’ the reason for the bounce will be documented. If an email address is determined to be non-existent as attempted, this will be categorized as a ‘hard bounce,’ and no further delivery attempts to that email address will be made. Instances where the inbox is full, initial blocking or deferral by the ISP, or any other factors impeding delivery are categorized as ‘soft bounces.’ To limit the number of undelivered emails resulting from soft bounces, we will continue making re-send attempts to addresses experiencing a soft-bounce for a period of 72-hours. If the email remains undeliverable after this 72-hour period, it will be deemed undeliverable, and no additional delivery attempts will be pursued for that particular email address.

⁴ ISP’s assign scores, or sender reputation, to domains and IP addresses which tells email inbox providers if the email should be delivered to the recipient’s inbox or directed to the spam folder. The sender reputation is determined by multiple factors such as: the timing and number of emails sent from the IP/domain; number of recipients that have marked incoming mail from the sender as spam; number of emails that are delivered directly to spam boxes; number of emails that bounce back; number of recipients that interact with the email (e.g. open, reply, forward or delete); quality of the content within the email (e.g. typos); the number of users that unsubscribe; and many other factors.

Direct Mail Notice

13. We also will mail the Postcard Notice by United States Postal Service (“USPS”) First Class Mail. Prior to mailing, all mailing addresses will be checked against the National Change of Address (“NCOA”) database maintained by USPS to ensure the accuracy and currency of Class Member address information for proper formatting and mail delivery.⁵ Should NCOA provide a more current mailing address for a Class Member, we will update the address accordingly. Additionally, the addresses will be validated through the Coding Accuracy Support System (“CASS”) to uphold zip code precision, while Delivery Point Validation (“DPV”) will be employed to verify address accuracy. In instances where a Postcard Notice is returned with forwarding address information, we will re-mail to the newly provided address. For any Postcard Notices that are returned as undeliverable, we will use standard skip-tracing to obtain forwarding address information. If skip-tracing yields an alternative forwarding mailing address, we will re-mail the Postcard Notice to the address identified through the skip-tracing process.

Settlement Website

14. We will create and maintain a website dedicated to this Settlement (“Settlement Website”). The website address will be prominently included in the Class Notices. The Class Notices, along with other relevant documents, will be posted on the Settlement Website for Class Members to review and download. The Settlement Website will also allow Class Members to submit a claim electronically, and include relevant dates, other case-related information, instructions for how to be excluded from the Class or object to the Settlement, and contact information for the Settlement Administrator.

⁵ The NCOA database is maintained by the USPS and consists of approx. 160 million permanent change-of-address (COA) records consisting of names and addresses of individuals, families, and businesses who have filed a change-of-address with the Postal Service™. The address information is maintained on the database for 48 months.

Dedicated Toll-Free Hotline

15. A dedicated toll-free informational hotline will be available 24 hours per day, seven days per week. The hotline will utilize an interactive voice response (“IVR”) system where Class Members can obtain essential information regarding the Settlement and be provided responses to frequently asked questions. Class Members will also have the option to leave a voicemail and receive a call back from the Administrator.

REQUESTS FOR EXCLUSION

16. Class Members that want to exclude themselves from the Class may submit a request for exclusion by mail to a dedicated Post Office Box that we will maintain. We will monitor all mail delivered to that Post Office Box and will track all exclusion requests received, which will be provided to the Parties.

PLAIN LANGUAGE

17. I have reviewed the Class Notices attached as Exhibits A-C to the Settlement Agreement. These documents were drafted and designed to inform Class Members about the Settlement, are presented in plain language, are designed to be noticed, and conform to the standards set forth in the Federal Judicial Center’s *Judges Class Action Notice and Claim Process Checklist* and Plain Language Guide.

18. The body of the Class Notices are formatted in such a way that Class Members can easily digest information to allow them to determine whether they qualify as a Class Member, identify important information and key dates, and obtain information about the Action in easy-to-read question and answer format. Important dates and deadlines will be featured in bold font, contact information for the Parties and Settlement Administrator will be provided in easy-to-read tables, where appropriate, and details about how to be excluded from the Action will be easy to identify in the question and answer format.

CONCLUSION

19. The proposed Notice Plan includes individual direct notice – written in accordance with plain language guidance – to all members of the class who can be identified through reasonable efforts. This Notice Plan will provide the best notice that is practicable under the circumstances.

20. It is my opinion, based on my expertise and experience and that of my team, that this method of focused notice dissemination provides effective notice in this Action, will provide the best notice that is practicable, adheres to Fed. R. Civ. P. 23, follows the guidance set forth in the Manual for Complex Litigation 4th Ed. and FJC guidance, and exceeds the requirements of due process, including its “desire to actually inform” requirement.⁶

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 12th day of October, 2023 in Portland, Oregon.

/s/ Brandon Schwartz
Brandon Schwartz

⁶ *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 315 (1950)

Exhibit A: CV of Brandon Schwartz



Brandon Schwartz



Brandon Schwartz is the Director of Notice for EAG Gulf Coast, LLC. He is responsible for developing customized legal notice solutions for clients related to class action notice and claims administration programs.

Brandon has more than 15 years of experience designing and implementing complex notice programs. His knowledge of email and postal distribution, demographic research, reach and frequency methodology, digital and social media strategies, and Fed R. Civ 23 compliance keep clients informed of the best practices in legal notice design. He is the author of several articles pertaining to Rule 23 changes and notice design and implementation.

Brandon has designed and implemented notice campaigns for hundreds of cases in his career. Prior to joining EAG Gulf Coast, LLC, Brandon was the Director of Notice and Media for a large claims administrator where he was responsible for overseeing cases such as: *In re Ductile Iron Pipe Fittings ("DIPF") Indirect Purchaser Antitrust Litigation*; *In re Sony PS3 "Other OS" Litigation*; *Gordon v. The Hain Celestial Group et al*; and *Smith, et al. v. Floor & Decor Outlets of America, Inc.*

EDUCATION & CREDENTIALS

- Bachelor of Science, Marketing, University of Illinois at Chicago
- Bachelor of Science, Management, University of Illinois at Chicago
- Legal Notice Expert

ARTICLES

- Legal Notice and Social Media: How to Win the Internet
- Rule 23 Changes: Avoid Delays in Class Settlement Approval
- Rule 23 Changes: How Electronic Notice Can Save Money
- Tackling Digital Class Notice with Rule 23 Changes
- What to Expect: California's Northern District Procedural Guidance Changes

SPEAKING ENGAGEMENTS

- Class Action Law Forum: Notice and Administration: Fraud and Third-Party Filers, San Diego, CA, March 18, 2023
- Class Action Law Forum: Settlement and Notice & Claims Trends, San Diego, CA, March 18, 2022
- Class Action Law Forum: Consumer Class Actions, San Diego, CA, March 5, 2020
- Class Action Mastery: Best Practices in Claims Settlement Administration, HB Litigation Conference, San Diego, CA, January 17, 2019
- Class Action Mastery: Communication with the Class, HB Litigation Conference, New York, NY, May 10, 2018

EAG Gulf Coast, LLC is a subsidiary of Eisner Advisory Group LLC. "EisnerAmper" is the brand name under which EisnerAmper LLP and Eisner Advisory Group LLC and its subsidiary entities provide professional services. EisnerAmper LLP and Eisner Advisory Group LLC are independently owned firms that practice in an alternative practice structure in accordance with the AICPA Code of Professional Conduct and applicable law, regulations and professional standards. EisnerAmper LLP is a licensed CPA firm that provides attest services, and Eisner Advisory Group LLC and its subsidiary entities provide tax and business consulting services. Eisner Advisory Group LLC and its subsidiary entities are not licensed CPA firms.

SAMPLE JUDICIAL COMMENTS

- **Hezi v. Celsius Holdings, Inc.**, Case No. 1:21-CV-09892-VM (S.D.N.Y.), Judge Jennifer H. Rearden on April 5, 2023:

The Court finds and determines that the notice procedure carried out by Claims Administrator Postlethwaite & Netterville, APAC ("P&N") afforded adequate protections to Class Members and provides the basis for the Court to make an informed decision regarding approval of the Settlement based on the responses of Class Members. The Court finds and determines that the Notice was the best notice practicable, and has satisfied the requirements of law and due process.

- **Scott Gilmore et al. v. Monsanto Company, et al.**, Case No. 3:21-CV-8159 (N.D. Cal.), Judge Vince Chhabria on March 31, 2023:

The Court finds that Class Notice has been disseminated to the Class in compliance with the Court's Preliminary Approval Order and the Notice Plan. The Court further finds that this provided the best notice to the Class practicable under the circumstances, fully satisfied due process, met the requirements of Rule 23 of the Federal Rules of Civil Procedure, and complied with all other applicable law.

- **John Doe et al. v. Katherine Shaw Bethea Hospital and KSB Medical Group, Inc.**, Case No. 2021L00026 (Fifteenth Judicial Circuit of Illinois, Lee County), on March 28, 2023:

The Court has determined that the notice given to the Settlement Class Members, in accordance with the Preliminary Approval Order, fully and accurately informed Settlement Class Members of all material elements of the Settlement and constituted the best notice practicable under the circumstances, and fully satisfied the requirements of 735 ILCS 5/2-803, applicable law, and the Due Process Clauses of the U.S. Constitution and Illinois Constitution.

- **Sanders et al. v. Ibex Global Solutions, Inc. et al.**, Case No. 1:22-CV-00591 (D.D.C.), Judge Trevor N. McFadden on March 10, 2023:

An affidavit or declaration of the Settlement Administrator's compliance with the Notice process has been filed with the Court. The Notice process as set forth in the Settlement Agreement and ordered in the Preliminary Approval Order constitutes the best notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Class Members in accordance with the requirements of Federal Rule of Civil Procedure 23(c)(2).

- **Pagan, et al. v. Faneuil, Inc.**, Case No. 3:22-CV-297 (E.D. Va), Judge Robert E. Payne on February 16, 2023:

The Court finds that the Notice Program, set forth in the Settlement Agreement and effectuated pursuant to the Preliminary Approval Order, was the best notice practicable under the circumstances, was reasonably calculated to provide and did



provide due and sufficient notice to the Settlement Class of the pendency of the Action, certification of the Settlement Class for settlement purposes only, the existence and terms of the Settlement Agreement, and their right to object and to appear at the final approval hearing or to exclude themselves from the Settlement Agreement, and satisfied the requirements of the Federal Rules of Civil Procedure, the United States Constitution, and other applicable law.

- **LaPrairie v. Presidio, Inc., et al.**, Case No. 1:21-CV-08795-JFK (S.D.N.Y.), Judge Andrew L. Carter, Jr. on December 12, 2022:

The Court hereby fully, finally and unconditionally approves the Settlement embodied in the Settlement Agreement as being a fair, reasonable and adequate settlement and compromise of the claims asserted in the Action. The Class Members have been given proper and adequate notice of the Settlement, fairness hearing, Class Counsel's application for attorneys' fees, and the service award to the Settlement Class Representative. An affidavit or declaration of the Settlement Administrator's compliance with the Notice process has been filed with the Court. The Notice process as set forth in the Settlement Agreement and ordered in the Preliminary Approval Order constitutes the best notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Class Members in accordance with the requirements of Federal Rule of Civil Procedure 23(c)(2).

- **Nelson v. Bansley & Kiener, LLP**, Case No. 2021-CH-06274 (Circuit Court of Cook County, IL), Judge Sophia H. Hall on November 30, 2022:

The court finds that such Notice as therein ordered, constitutes the best possible notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Settlement Class Members in compliance with requirements of 735 ILCS 5/2-801, et seq.

- **Buck, et al. v. Northwest Commercial Real Estate Investments, LLC, et al.**, Case No. 21-2-03929-1-SEA (Superior Court King County, WA), Judge Douglass A. North on September 30, 2022:

Pursuant to the Court's Preliminary Approval Order, Postcard Notice was distributed to the Class by First Class mail and Email Notice was distributed to all Class Members for whom the Settlement Administrator had a valid email address. The Court hereby finds and concludes that Postcard and Email Notice was disseminated to members of the Settlement Class in accordance with the terms set forth in the Settlement and in compliance with the Court's Preliminary Approval Order. The Court further finds and concludes that the Postcard and Email Notice, and the distribution procedures set forth in the Settlement fully satisfy CR 23(c)(2) and the requirements of due process, were the best notice practicable under the circumstances, provided individual notice to all members of the Class who could be identified through reasonable effort, provided an opportunity for the Class Members to object or exclude



themselves from the Settlement, and support the Court's exercise of jurisdiction over the Settlement Class Members as contemplated in the Settlement and this Final Approval Order.

- **Rivera, et al. v. Google LLC**, Case No. 2019-CH-00990 (Circuit Court of Cook County, IL), Judge Anna M. Loftus on September 28, 2022:

Pursuant to this Court's Order granting preliminary approval of the Settlement, Postlethwaite & Netterville, APAC ("P&N") served as Settlement Administrator. This Court finds that the Settlement Administrator performed all duties thus far required as set forth in the Settlement Agreement.

The Court finds that the Settlement Administrator has complied with the approved notice process as confirmed by its Declaration filed with the Court. The Court further finds that the Notice plan set forth in the Settlement as executed by the Settlement Administrator satisfied the requirements of Due Process and 735 ILCS 5/2-803. The Notice plan was reasonably calculated and constituted the best notice practicable to apprise Settlement Class Members of the nature of this litigation, the scope of the Settlement Class, the terms of the Settlement, the right of Settlement Class Members to object to the Settlement or exclude themselves from the Settlement Class and the process for doing so, and of the Final Approval Hearing. Accordingly, the Court finds and concludes that the Settlement Class Members have been provided the best notice practicable under the circumstances, and that the Notice plan was clearly designed to advise the Settlement Class Members of their rights.

- **Patricia Davidson, et al. v. Healthgrades Operating Company, Inc.**, Case No. 21-cv-01250-RBJ (D. Colo), Judge R. Brooke Jackson on August 22, 2022:

The Court finds that such Notice as therein ordered, constitutes the best possible notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Settlement Class Members in compliance with the requirements of Federal Rule of Civil Procedure 23(c)(2).

- **Hosch et al. v. Drybar Holdings LLC**, Case No. 2021-CH-01976 (Circuit Court of Cook County, IL), Judge Pamela M. Meyerson on June 27, 2022:

The Court has determined that the Notice given to the Settlement Class Members, in accordance with the Preliminary Approval Order, fully and accurately informed Settlement Class Members of all material elements of the Settlement and constituted the best notice practicable under the circumstances, and fully satisfied the requirements of 735 ILCS 5/2-803, applicable law, and the Due Process Clauses of the U.S. Constitution and Illinois Constitution.



- **Baldwin et al. v. National Western Life Insurance Company**, 2:21-cv-04066-WJE (W.D. MO), Judge Willie J. Epps, Jr. on June 16, 2022:

The Court finds that such Notice as therein ordered, constituted the best possible notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Settlement Class Members in compliance with the requirements of Rule 23(c)(2).

- **Chapman et al. v. voestalpine Texas Holding LLC**, Case No. 2:17-cv-174 (S.D. Tex.), Judge Nelva Gonzales Ramos on June 15, 2022:

The Class and Collective Notice provided pursuant to the Agreement and the Order Granting Preliminary Approval of Class Settlement:

- Constituted the best practicable notice, under the circumstances;*
- Constituted notice that was reasonably calculated to apprise the Class Members of the pendency of this lawsuit, their right to object or exclude themselves from the proposed settlement, and to appear at the Fairness Hearing;*
- Was reasonable and constituted due, adequate, and sufficient notice to all persons entitled to receive notice; and*
- Met all applicable requirements of the Federal Rules of Civil Procedure and the Due Process Clause of the United States Constitution because it stated in plain, easily understood language the nature of the action; the definition of the class certified; the class claims, issues, or defenses; that a class member may enter an appearance through an attorney if the member so desires; that the court will exclude from the class any member who requests exclusion; the time and manner for requesting exclusion; and the binding effect of a class judgment on members under Rule 23(c)(3).*

- **Hanson v. Welch Foods Inc.**, Case No. 3:20-cv-02011 (N.D. Cal.), Judge Joseph C. Spero on April 15, 2022:

The Class Notice and claims submission procedures set forth in Sections 5 and 9 of the Settlement Agreement, and the Notice Plan detailed in the Declaration of Brandon Schwartz filed on October 1, 2021, fully satisfy Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process, were the best notice practicable under the circumstances, provided individual notice to all Settlement Class Members who could be identified through reasonable effort, and support the Court's exercise of jurisdiction over the Settlement Class as contemplated in the Settlement Agreement and this Order. See Fed. R. Civ. P. 23(e)(2)(C)(ii).

- **McMorrow, et al. v. Mondelez International, Inc.**, No. 17-cv-02327 (S.D. Cal.), Judge Cynthia Bashant on April 8, 2022:

Notice was administered nationwide and achieved an overwhelmingly positive outcome, surpassing estimates from the Claims Administrator both in the predicted reach of the notice (72.94% as compared to 70%) as well as in participation from the



class (80% more claims submitted than expected). (Schwartz Decl. ¶ 14, ECF No. 206-1; Final App. Mot. 3.) Only 46 potential Class Members submitted exclusions (Schwartz Decl. ¶ 21), and only one submitted an objection—however the objection opposes the distribution of fees and costs rather than the settlement itself. (Obj. 3.) The Court agrees with Plaintiffs that the strong claims rate, single fee-related objection, and low opt-out rate weigh in favor of final approval.

- **Hadley, et al. v. Kellogg Sales Company**, No. 16-cv-04955 (N.D. Cal.), Judge Lucy H. Koh on November 23, 2021:

The Class Notice and claims submission procedures set forth in Sections 4 and 6 of the Settlement Agreement, and the Notice Plan filed on March 10, 2021, fully satisfy Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process, were the best notice practicable under the circumstances, provided individual notice to all Settlement Class Members who could be identified through reasonable effort, and support the Court’s exercise of jurisdiction over the Settlement Classes as contemplated in the Settlement Agreement and this Order. See Fed. R. Civ. P. 23(e)(2)(C)(ii).

- **Miracle-Pond, et al. v. Shutterfly, Inc.**, No. 2019-CH-07050 (Circuit Court of Cook County, IL), Judge Raymond W. Mitchell on September 9, 2021:

This Court finds that the Settlement Administrator performed all duties thus far required as set forth in the Settlement Agreement. The Court finds that the Settlement Administrator has complied with the approved notice process as confirmed by its Declaration filed with the Court. The Court further finds that the Notice plan set forth in the Settlement as executed by the Settlement Administrator satisfied the requirements of Due Process and 735 ILCS 5/2-803. The Notice plan was reasonably calculated and constituted the best notice practicable to apprise Settlement Class Members of the nature of this litigation, the scope of the Settlement Class, the terms of the Settlement, the right of Settlement Class Members to object to the Settlement or exclude themselves from the Settlement Class and the process for doing so, and of the Final Approval Hearing. Accordingly, the Court finds and concludes that the Settlement Class Members have been provided the best notice practicable under the circumstances, and that the Notice plan was clearly designed to advise the Settlement Class Members of their rights.

- **In re: Interior Molded Doors Indirect Purchasers Antitrust Litigation**, No. 3:18-cv-00850 (E.D. Va.), Judge John A. Gibney on July 27, 2021:

The notice given to the Settlement Class of the settlement set forth in the Settlement Agreement and the other matters set forth herein was the best notice practicable under the circumstances. Said notice provided due and adequate notice of the proceedings and of the matters set forth therein, including the proposed settlement set forth in the Settlement Agreement, to all persons and entities entitled to such



notice, and said notice fully satisfied the requirements of Rules 23(c)(2) and 23(e) and the requirements of due process.

- **Krommenhock, et al. v. Post Foods, LLC**, No. 16-cv-04958 (N.D. Cal.), Judge William H. Orrick on June 25, 2021:

The Class Notice and claims submission procedures set forth in Sections 4 and 6 of the Settlement Agreement and the Notice Plan filed on January 18, 2021 fully satisfy Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process, were the best notice practicable under the circumstances, provided individual notice to all Settlement Class Members who could be identified through reasonable effort, and support the Court's exercise of jurisdiction over the Settlement Classes as contemplated in the Settlement Agreement and this Order. See Fed. R. Civ. P. 23(e)(2)(C)(ii).

- **Lisa Jones et al. v. Monsanto Company, et al.**, No. 4:19-cv-00102-BP (W.D. Mo.), Chief Judge Beth Phillips on May 13, 2021:

The Court also notes that there has been only one objection filed, and even the Objector has not suggested that the amount of the settlement is inadequate or that the notice or the method of disseminating the notice was inadequate to satisfy the requirements of the Due Process Clause or was otherwise infirm...However, with respect to the Rule 23(e) factors, the Court finds that the process used to identify and pay class members and the amount paid to class members are fair and reasonable for settlement purposes.

- **Winters et al. v. Two Towns Ciderhouse Inc.**, No. 3:20-cv-00468-BAS-BGS (S.D. Cal.), Judge Cynthia Bashant on May 11, 2021:

The settlement administrator, Postlethwaite and Netterville, APAC ("P&N") completed notice as directed by the Court in its Order Granting Preliminary Approval of the Class Action Settlement. (Decl. of Brandon Schwartz Re: Notice Plan Implementation and Settlement Administration ("Schwartz Decl.") ¶¶ 4–14, ECF No. 24-5.)...Notice via social media resulted in 30,633,610 impressions. (Schwartz Decl. ¶4.) Radio notice via Spotify resulted in 394,054 impressions. (Id. ¶ 5.) The settlement website received 155,636 hits, and the toll-free number received 51 calls. (Id. ¶¶ 9, 14.) Thus, the Court finds the Notice complies with due process.

- **Siddle, et al. v. The Duracell Company, et al.**, No. 4:19-cv-00568 (N.D. Cal.), Judge James Donato on April 19, 2021:

The Court finds that the Class Notice and Claims Administration procedures set forth in the Agreement fully satisfy Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process, were the best notice practicable under the circumstances, provided due and sufficient individual notice to all persons in the Settlement Class who could be identified through reasonable effort, and support the



Court's exercise of jurisdiction over the Settlement Class as contemplated in the Agreement and this Final Approval Order.

- ***Fabricant v. Amerisave Mortgage Corporation***, No. 19-cv-04659-AB-AS (C.D. Cal.), Judge Andre Birotte, Jr. on November 25, 2020:

The Class Notice provided to the Settlement Class conforms with the requirements of Fed. Rule Civ. Proc. 23, the California and United States Constitutions, and any other applicable law, and constitutes the best notice practicable under the circumstances, by providing individual notice to all Settlement Class Members who could be identified through reasonable effort, and by providing due and adequate notice of the proceedings and of the matters set forth therein to the other Settlement Class Members. The notice fully satisfied the requirements of Due Process. No Settlement Class Members have objected to the terms of the Settlement.

- ***Edward Makaron et al. v. Enagic USA, Inc.***, 2:15-cv-05145 (C.D. Cal.), Judge Dean D. Pregerson on January 16, 2020:

The Court makes the following findings and conclusions regarding notice to the Class:

a. The Class Notice was disseminated to persons in the Class in accordance with the terms of the Settlement Agreement and the Class Notice and its dissemination were in compliance with the Court's Preliminary Approval Order;

b. The Class Notice: (i) constituted the best practicable notice under the circumstances to potential Class Members, (ii) constituted notice that was reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the Action, their right to object or to exclude themselves from the proposed Settlement, and their right to appear at the Final Approval Hearing, (iii) was reasonable and constituted due, adequate, and sufficient individual notice to all persons entitled to be provided with notice, and (iv) complied fully with the requirements of Fed. R. Civ. P. 23, the United States Constitution, the Rules of this Court, and any other applicable law.

- ***John Karpilovsky and Jimmie Criollo, Jr. et al. v. All Web Leads, Inc.***, 1:17-cv-01307 (N.D. Ill.), Judge Harry D. Leinenweber on August 8, 2019:

The Court hereby finds and concludes that Class Notice was disseminated to members of the Settlement Class in accordance with the terms set forth in the Settlement Agreement and that Class Notice and its dissemination were in compliance with this Court's Preliminary Approval Order.

The Court further finds and concludes that the Class Notice and claims submission procedures set forth in the Settlement Agreement fully satisfy Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process, were the best notice practicable under the circumstances, provided individual notice to all Settlement



Class Members who could be identified through reasonable effort, and support the Court's exercise of jurisdiction over the Settlement Class as contemplated in the Settlement and this Order.

- **Hartig Drug Company Inc., v. Senju Pharmaceutical LTD., and Allergan, Inc.**, 1:14-cv-00719 (D. Del.), Judge Joseph F. Bataillon on May 3, 2018:

The Court approves the proposed notice program, including the Mail Notice and the Publication Notice, attached as Exhibits A and B to the Declaration of Brandon Schwartz of Garden City Group in support of Plaintiff's Unopposed Motion to Distribute Notice to the Settlement Class ("Schwartz Declaration"). The Court further approves the claim form attached as Exhibit C to the Schwartz Declaration. The Court finds that the manner of notice proposed constitutes the best practicable notice under the circumstances as well as valid, due, and sufficient notice to all persons entitled thereto and complies fully with the requirements of the Federal Rule of Civil Procedure 23...

- **Gordon v. Hain Celestial Group, et al.**, 1:16-cv-06526 (S.D.N.Y.), Judge Katherine B. Forrest on September 22, 2017:

The form, content, and method of dissemination of the Class Notice given to Settlement Class Members - as previously approved by the Court in its Preliminary Approval Order - were adequate and reasonable, constituted the best notice practicable under the circumstances, and satisfied the requirements of Rule 23 (c) and (e) and Due Process.

- **In re: Sony PS3 "Other OS" Litigation**, 4:10-cv-01811 (N.D. Cal.), Judge Yvonne Gonzalez Rogers on June 8, 2018:

The Court finds that the program for disseminating notice to the Class provided for in the Settlement, and previously approved and directed by the Court (the "Notice Program"), has been implemented by the Settlement Administrator and the Parties, and that such Notice Program, including the approved forms of notice, constitutes the best notice practicable under the circumstances and fully satisfied due process, the requirements of Rule 23 of the Federal Rules of Civil Procedure and all other applicable laws.

- **In re: Ductile Iron Pipe Fittings ("DIPF") Indirect Purchaser Antitrust Litigation**, 3:12-cv-00169 (D.N.J.), Judge Anne E. Thompson on June 8, 2016:

Notice of the Settlement Agreements to the Settlement Classes required by Rule 23(e) of the Federal Rules of Civil Procedure, including the additional forms of notice as approved by the Court, has been provided in accordance with the Court's orders granting preliminary approval of these Settlements and notice of the Settlements, and such Notice has been given in an adequate and sufficient manner; constitutes the best notice practicable under the circumstances; and satisfies Federal Rules of Civil Procedure 23(c)(2)(B) and due process.



LEGAL NOTICE CASES

Case Caption	Docket Number	Court
<i>Rivera, et al. v. Google LLC</i>	19-CH-00990	Ill. Cir. Ct. Cook Cnty.
<i>Hezi v Celsius Holdings, Inc</i>	1:21-cv-09892	S.D.N.Y.
<i>Quackenbush, et al. v American Honda Motor Company, Inc. et al.</i>	3:20-cv-05599	N.D. Cal.
<i>Sanders, et al. v. Ibex Global Solutions, Inc., et al.</i>	1:22-cv-00591	D.D.C.
<i>In re: Cathode Ray Tube (CRT) Antitrust Litigation</i>	4:07-cv-05944	N.D. Cal.
<i>John Doe et al. v. Katherine Shaw Bethea Hospital and KSB Medical Group, Inc.</i>	2021L00026	Fifteenth Judicial Circuit of Illinois, Lee County
<i>Gonshorowski v. Spencer Gifts, LLC</i>	ATL-L-000311-22	N.J. Super. Ct.
<i>Stewart et al. v. Albertsons Cos., Inc.</i>	16CV15125	Mult. Cty. Cir. Ct.
<i>Simmons v. Assistcare Home Health Services, LLC, d/b/a Preferred Home Health Care of New York/Preferred Gold</i>	511490/2021	Kings Co. Sup. Ct., 2d Jud. Dist.
<i>Terry Fabricant v. Top Flite Financial, Inc.</i>	20STCV13837	Cal. Super.
<i>Riley v. Centerstone of America</i>	3:22-cv-00662	M.D. Tenn.
<i>Bae v. Pacific City Bank</i>	21STCV45922	Cal. Super.
<i>Tucker v. Marietta Area Health Care Inc.</i>	2:22-cv-00184	S.D. Ohio
<i>Acaley v. Vimeo.com, Inc</i>	19-CH-10873	Ill. Cir. Ct. Cook Cnty.
<i>Easter v Sound Generations</i>	21-2-16953-4	Wash. Super.
<i>GPM v City of Los Angeles</i>	21STCV11054	Cal. Super.
<i>Pagan v. Faneuil, Inc</i>	3:22-cv-297	E.D. Va.
<i>Estes v. Dean innovations, Inc.</i>	20-CV-22946	Mult. Cty. Cir. Ct.
<i>Buck, et al. v. Northwest Commercial Real Estate Investments, LLC, et al.</i>	21-2-03929-1	Wash. Super.
<i>Gilmore, et al. v. Monsanto Company, et al.</i>	3:21-cv-8159	N.D. Cal.
<i>Copley v. Bactolac Pharmaceutical, Inc. et al.</i>	2:18-cv-00575	E.D.N.Y.
<i>James v. CohnReznick LLP</i>	1:21-cv-06544	S.D.N.Y.
<i>Doe v. Virginia Mason</i>	19-2-26674-1	Wash. Super.
<i>LaPrairie v. Presidio, Inc., et al.</i>	1:21-cv-08795	S.D.N.Y.
<i>Richardson v. Overlake Hospital Medical Center et al.</i>	20-2-07460-8	Wash. Super.
<i>Weidman, et al. v. Ford Motor Company</i>	2:18-cv-12719	E.D. Mich.
<i>Siqueiros et al. v. General Motors, LLC</i>	3:16-cv-07244	N.D. Cal.
<i>Vaccaro v. Delta Drugs, II. Inc.</i>	20STCV28871	Cal. Super.
<i>Hosch v. Drybar Holdings LLC</i>	2021-CH-01976	Ill. Cir. Ct. Cook Cnty.
<i>Davidson v. Healthgrades Operating Company, Inc.</i>	21-cv-01250	D. Colo.
<i>Baldwin et al. v. National Western Life Insurance Co.</i>	2:21-cv-04066	W.D. Mo.
<i>Deien v. Seattle City Light</i>	19-2-21999-8	Wash. Super.
<i>Blake Chapman et al. v. voestalpine Texas, LLC, et al.</i>	2:17-cv-00174	S.D. Tex.



Case Caption	Docket Number	Court
<i>Hanson v. Welch Foods Inc.</i>	3:20-cv-02011	N.D. Cal.
<i>McMorrow v. Mondelez International, Inc.</i>	3:17-cv-02327	S.D. Cal.
<i>Hadley, et al. v. Kellogg Sales Company</i>	5:16-cv-04955	N.D. Cal.
<i>Miracle-Pond, et al. v. Shutterfly, Inc.</i>	16-cv-10984	Cir. Ct. Cook Cnty.
<i>In Re: Sonic Corp. Customer Data Breach Litigation</i>	1:17-md-02807	N.D. Ohio
<i>In re: Interior Molded Doors Indirect Purchaser Antitrust Litigation</i>	3:18-cv-00850	E.D. Va.
<i>Krommenhock, et al. v. Post Foods, LLC</i>	3:16-cv-04958	N.D. Cal.
<i>Daley, et al. v. Greystar Management Services LP, et al.</i>	2:18-cv-00381	E.D. Wash.
<i>Brianna Morris v. FPI Management Inc.</i>	2:19-cv-0128	E.D. Wash.
<i>Kirilose Mansour v. Bumble Trading Inc.</i>	RIC1810011	Cal. Super.
<i>Clopp et. al. v. Pacific Market Research, LLC et. al.</i>	21-2-08738-4	Wash. Super.
<i>Lisa T. Leblanc, et al. v. Texas Brine Company, LLC, et al.</i>	12-2059	E.D. La.
<i>Jackson-Battle v. Navicent Health, Inc.</i>	2020-cv-072287	Ga Super.
<i>Richardson v. Overlake Hospital Medical Center et al.</i>	20-2-07460-8	Wash. Super.
<i>Fabricant v. Amerisave Mortgage Corp</i>	2:19-cv-04659	C.D. Cal.
<i>Jammeh v. HNN Assoc.</i>	2:19-cv-00620	W.D. Wash.
<i>Farruggio, et al. v. 918 James Receiver, LLC et al.</i>	3831/2017	N.Y. Sup Ct
<i>Winters, et al. v. Two Towns Ciderhouse Inc.</i>	3:20-cv-00468	S.D. Cal.
<i>Siddle, et al. v. The Duracell Company, et al.</i>	4:19-cv-00568	N.D. Cal.
<i>Lisa Jones et al. v. Monsanto Company</i>	4:19-cv-00102	W.D. Mo.
<i>Makaron v. Enagic USA, Inc.</i>	2:15-cv-05145	C.D. Cal.
<i>John Karpilovsky, et al. v. All Web Leads, Inc.</i>	1:17-cv-01307	N.D. Ill.
<i>Hughes et al. v. AutoZone Parts Inc. et al.</i>	BC631080	Cal. Super.
<i>Kimberly Miller, et al. v. P.S.C., Inc. d/b/a Puget Sound Collections</i>	3:17-cv-0586	W.D. Wash.
<i>Aaron Van Fleet, et al. v. Trion Worlds Inc.</i>	535340	Cal. Super.
<i>Wilmington Trust TCPA (Snyder, et al. v. U.S. Bank, N.A., et al.)</i>	1:16-cv-11675	N.D. Ill.
<i>Deutsche Bank National Trust TCPA (Snyder, et al. v. U.S. Bank, N.A., et al.)</i>	1:16-cv-11675	N.D. Ill.
<i>Adriana Garcia, et al. v. Sun West Mortgage Company, Inc.</i>	BC652939	Cal. Super.
<i>Cajuns for Clean Water, LLC, et al. v. Cecilia Water Corporation, et al.</i>	82253	La. Dist.
<i>In re: Sony PS3 "Other OS" Litigation</i>	4:10-cv-01811	N.D. Cal.
<i>In re: Ductile Iron Pipe Fittings Indirect Purchaser Antitrust Litigation</i>	3:12-cv-00169	D.N.J.
<i>In re: Ductile Iron Pipe Fittings Direct Purchaser Antitrust Litigation</i>	3:12-cv-00711	D.N.J.
<i>Hartig Drug Company Inc., v. Senju Pharmaceutical et. al.</i>	1:14-cv-00719	D. Del.
<i>Gordon v. The Hain Celestial Group, et al.</i>	1:16-cv-06526	S.D.N.Y.
<i>In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico – Economic and Property Damages Settlement (MDL 2179)</i>	2:10-md-02179	E.D. La.



Case Caption	Docket Number	Court
<i>In re: Google Inc. Cookie Placement Consumer Privacy Litigation (MDL 2358)</i>	1:12-md-02358	D. Del.
<i>In re: Pool Products Distribution Market Antitrust Litigation (MDL 2328)</i>	2:12-md-02328	E.D. La.
<i>In re: Polyurethane Foam Antitrust Litigation (MDL 2196)</i>	1:10-md-2196	N.D. Ohio
<i>In re: Processed Egg Products Antitrust Litigation (MDL 2002)</i>	2:08-md-02002	E.D. Pa.
<i>In re: The Flintkote Company and Flintkote Mines Limited</i>	1:04-bk-11300	Bankr. D. Del.
<i>In re: Prograf (Tacrolimus) Antitrust Litigation (MDL 2242)</i>	1:11-cv-02242	D. Mass.
<i>Markos v. Wells Fargo Bank, N.A.</i>	1:15-cv-01156	N.D. Ga.
<i>Cross v. Wells Fargo Bank, N.A.</i>	1:15-cv-01270	N.D. Ga.
<i>Ferrick v. Spotify USA Inc.</i>	1:16-cv-08412	S.D.N.Y.
<i>In re: Parmalat Securities Litigation (MDL 1653)</i>	1:04-md-01653	S.D.N.Y.
<i>Smith v. Floor and Décor Outlets of America, Inc.</i>	1:15-cv-04316	N.D. Ga.
<i>Schwartz v. Intimacy in New York, LLC</i>	1:13-cv-05735	S.D.N.Y.
<i>In re: TRS Recovery Services, Inc., Fair Debt Collection Practices Act Litigation (MDL 2426)</i>	2:13-md-02426	D. Me.
<i>Young v. Wells Fargo & Co</i>	4:08-cv-00507	S.D. Iowa
<i>In re: Credit Default Swaps Antitrust Litigation (MDL 2476)</i>	1:13-md-02476	S.D.N.Y.
<i>Anthony Frank Lasseter et. al. v. Rite-Aid</i>	09-cv-2013-900031	Ala. Cir. Ct.
<i>Khoday v. Symantec Corp.</i>	0:11-cv-00180	D. Minn.
<i>MacKinnon, Jr v. IMVU</i>	1-11-cv-193767	Cal. Super.
<i>Ebarle et al. v. LifeLock, Inc.</i>	3:15-cv-00258	N.D. Cal.
<i>Sanchez v. Kambousi Restaurant Partners ("Royal Coach Diner")</i>	1:15-cv-05880	S.D.N.Y.
<i>Schwartz v. Avis Rent A Car System</i>	2:11-cv-04052	D.N.J.
<i>Klein v. Budget Rent A Car System</i>	2:12-cv-07300	D.N.J.
<i>Pietrantonio v. Kmart Corporation</i>	15-5292	Mass. Cmmw.
<i>Cox et al. v. Community Loans of America, Inc., et al.</i>	4:11-cv-00177	M.D. Ga.
<i>Vodenichar et al. v. Halcón Energy Properties, Inc. et al.</i>	2013-512	Pa. Com. Pleas
<i>State of Oregon, ex. rel. Ellen F. Rosenblum, Attorney General v. AU Optronics Corporation, et al.</i>	1208 10246	Or. Cir.
<i>Barr v. The Harvard Drug Group, LLC, d/b/a Expert-Med</i>	0:13-cv-62019	S.D. Fla.
<i>Splater et al. v. Thermal Ease Hydronic Systems, Inc. et al.</i>	03-2-33553-3	Wash. Super.
<i>Phillips v. Bank of America</i>	15-cv-00598	Cal. Super.
<i>Ziwczyzn v. Regions Bank and American Security Insurance Co.</i>	1:15-cv-24558	S.D. Fla
<i>Dorado vs. Bank of America, N.A.</i>	1:16-cv-21147	S.D. Fla
<i>Glass v. Black Warrior Electric</i>	cv-2014-900163	Ala. Cir.
<i>Beck v. Harbor Freight Tools USA, Inc.</i>	15-cv-00598	Ohio Com. Pleas
<i>Ligon v. City of New York, et al.</i>	12-cv-2274	S.D.N.Y.



Case Caption	Docket Number	Court
<i>Abdellahi, et al., vs. River Metals Recycling, LLC</i>	13-CI00095	Ky. Cir.
<i>Alegre v. XPO Last Mile, Inc.</i>	2:15-cv-02342	D.N.J.
<i>Jack Leach et al. v. E.I. du Pont de Nemours and Co.</i>	01-C-608	W. Va. Cir.
<i>Hayes , et al. v. Citizens Financial Group Inc., et al.</i>	1:16-cv-10671	D. Mass.
<i>In re: Foreign Exchange Benchmark Rates Antitrust Litigation</i>	1:13-cv-07789	S.D.N.Y.
<i>Flo & Eddie, Inc. v. Sirius XM Radio, Inc.</i>	2:13-cv-05693	C.D. Cal.
<i>Cozzitorto vs. American Automobile Association of Northern California, Nevada & Utah</i>	C13-02656	Cal. Super.
<i>Filannino-Restifo, et al. v. TD Bank, N.A.</i>	0:18-cv-01159	D.N.J.
<i>United States v. Takata Corporation</i>	2:16-cv-20810	E.D. Mich.
<i>Free Range Content, Inc. v. Google Inc.</i>	5:14-cv-02329	N.D. Cal.
<i>Bautista v. Valero Marketing and Supply Company</i>	3:15-cv-05557	N.D. Cal.
<i>Devin Forbes and Steve Lagace -and- Toyota Canada Inc.</i>	cv-16-70667	Ont. Super. Ct.
<i>Thierry Muraton -and- Toyota Canada Inc.</i>	500-06-000825-162	Que. Super. Ct.
<i>In re: Residential Schools Class Action Litigation</i>	00-cv-192059	Ont. Super. Ct.
<i>In re: Tricor Antitrust Litigation</i>	05-340	D. Del.
<i>Masztal v. City of Miami</i>	3D06-1259	Fla. Dist. App.
<i>In re: Tribune Company, et al.</i>	08-13141	D. Del.
<i>Marian Perez v. Tween Brands Inc.</i>	14-cv-001119	Ohio Com. Pleas
<i>Ferguson v. Safeco</i>	DV 04-628B	Mont. Dist.
<i>Williams v. Duke Energy</i>	1:08-cv-00046	S.D. Ohio
<i>Boone v. City of Philadelphia</i>	2:05-cv-01851	E.D. Pa.
<i>In re: Lehman Brothers Inc.</i>	08-13555, 08-01420	Bankr. S.D.N.Y.
<i>In re: Department of Veterans Affairs (VA) Data Theft Litigation (MDL No. 1796)</i>	1:06-md-00506	D.D.C.
<i>In re: Countrywide Customer Data Breach Litigation (MDL No. 1998)</i>	3:08-md-01998	W.D. Ky.
<i>In re: Checking Account Overdraft Litigation (MDL No. 2036)</i>	1:09-md-02036	S.D. Fla.
<i>In re: Heartland Data Security Breach Litigation (MDL No. 2046)</i>	4:09-md-02046	S.D. Tex.
<i>Schulte v. Fifth Third Bank</i>	1:09-cv-06655	N.D. Ill.
<i>Mathena v. Webster Bank, N.A.</i>	3:10-cv-01448	D. Conn.
<i>Delandro v. County of Allegheny</i>	2:06-cv-00927	W.D. Pa.
<i>Trombley v. National City Bank</i>	1:10-cv-00232	D.D.C.
<i>Fontaine v. Attorney General of Canada</i>	00-cv-192059 CP	Ont. Super. Ct.
<i>Marolda v. Symantec Corp.</i>	3:08-cv-05701	N.D. Cal.



Exhibit B: CV of EAG





Class & Mass Action Settlement Administration

Our Approach

EisnerAmper provides pre-settlement consulting and post-settlement administration services in connection with lawsuits pending in state and federal courts nationwide. Since 1999, EisnerAmper professionals have processed more than \$14 billion dollars in settlement claims. Our innovative team successfully administers a wide variety of settlements, and our industry-leading technology enables us to develop customizable administration solutions for class and mass action litigations.



EisnerAmper professionals have processed more than \$14 billion dollars in settlement claims.

Sample Case Experience*



Environmental/Toxic Torts

- In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico (MDL 2179)
- In re: FEMA Trailer Formaldehyde Products Liability Litigation (MDL 1873)
- Sanchez et al v. Texas Brine, LLC et al.
- Burmaster et al. v. Plaquemines Parish Government, et al.
- Cajuns for Clean Water, LLC et al. v. Cecilia Water Corporation, et al.
- Cooper, et al. v. Louisiana Department of Public Works
- Maturin v. Bayou Teche Water Works
- Chevron Richmond Refinery Fire Settlement
- Chapman et al. v. voestalpine Texas LLC, et al.



Consumer

- Jones et al. v. Monsanto Co.
- Hadley, et al. v. Kellogg Sales Co.
- McMorrow, et al. v. Mondelez International, Inc
- Krommenhock, et al. v. Post Foods, LLC
- Hanson v. Welch Foods Inc.
- Siddle et al. v. The Duracell Co. et al.
- Copley, et al. v. Bactolac Pharmaceutical, Inc.
- Hughes et al. v. AutoZone Parts Inc. et al.
- Winters v. Two Towns Ciderhouse, Inc.
- Burford et al. v. Cargill, Incorporated
- Fabricant v. AmeriSave Mortgage Corp. (TCPA)
- Makaron v. Enagic USA, Inc. (TCPA)
- Prescod et al. v. Celsius Holdings, Inc.
- Gilmore v. Monsanto Co.



Antitrust

- In re: Cathode Ray Tube (CRT) Antitrust Litigation (MDL 1917)⁴
- In re: Interior Molded Doors Antitrust Litigation (Indirect)



Mass Torts

- In re: E.I. du Pont de Nemours and Company C8 Personal Injury Litigation (MDL 2433)¹
- In re: Testosterone Replacement Therapy Products Liability Litigation (MDL 2545)¹
- In re: Paraquat Products Liability Litigation (MDL 3004)¹
- In re: Paragard Products Liability Litigation (MDL 2974)
- In re: Roundup Products Liability Litigation (MDL 2741)²
- Essure Product Liability Settlement³
- Porter Ranch (JCCP 4861)



Data Breach/Privacy

- Miracle-Pond, et al. v. Shutterfly
- Baldwin et al. v. National Western Life Insurance Co.
- Jackson-Battle, et al. v. Navicent Health, Inc.
- Bailey, et al. v. Grays Harbor County Public Hospital No. 2
- In re: Forefront Data Breach Litigation
- Easter et al. v. Sound Generations
- Rivera, et al. v. Google LLC
- Acaley v. Vimeo, Inc.



Mass Arbitration

- T-Mobile
- Uber
- Postmates
- Instacart
- Intuit



Other Notable Cases

- Brown, et al. v. State of New Jersey DOC (Civil Rights)
- Slade v. Progressive (Insurance)

¹Work performed as Postlethwaite & Netterville, APAC (P&N)

²Services provided in cooperation with the Court-Appointed Special Master

³Appointed As Common Benefit Trustee

⁴Inventory Settlement

"EisnerAmper" is the brand name under which EisnerAmper LLP and Eisner Advisory Group LLC and its subsidiary entities provide professional services. EisnerAmper LLP and Eisner Advisory Group LLC practice as an alternative practice structure in accordance with the AICPA Code of Professional Conduct and applicable law, regulations and professional standards. EisnerAmper LLP is a licensed independent CPA firm that provides attest services to its clients, and Eisner Advisory Group LLC and its subsidiary entities provide tax and business consulting services to their clients. Eisner Advisory Group LLC and its subsidiary entities are not licensed CPA firms. The entities falling under the EisnerAmper brand are independently owned and are not liable for the services provided by any other entity providing services under the EisnerAmper brand. Our use of the terms "our firm" and "we" and "us" and terms of similar import, denote the alternative practice structure conducted by EisnerAmper LLP and Eisner Advisory Group LLC.

EAG Claims Administration Experience

SAMPLE JUDICIAL COMMENTS

- **Hezi v. Celsius Holdings, Inc.**, No. 1:21-CV-09892-VM (S.D.N.Y.), Judge Jennifer H. Rearden on April 5, 2023:

The Court finds and determines that the notice procedure carried out by Claims Administrator Postlethwaite & Netterville, APAC ("P&N") afforded adequate protections to Class Members and provides the basis for the Court to make an informed decision regarding approval of the Settlement based on the responses of Class Members. The Court finds and determines that the Notice was the best notice practicable, and has satisfied the requirements of law and due process .

- **Scott Gilmore et al. v. Monsanto Company, et al.**, No. 3:21-CV-8159 (N.D. Cal.), Judge Vince Chhabria on March 31, 2023:

The Court finds that Class Notice has been disseminated to the Class in compliance with the Court's Preliminary Approval Order and the Notice Plan. The Court further finds that this provided the best notice to the Class practicable under the circumstances, fully satisfied due process, met the requirements of Rule 23 of the Federal Rules of Civil Procedure, and complied with all other applicable law.

- **John Doe et al. v. Katherine Shaw Bethea Hospital and KSB Medical Group, Inc.**, No. 2021L00026 (Fifteenth Judicial Circuit of Illinois, Lee County), on March 28, 2023:

The Court has determined that the Notice given to the Settlement Class Members, in accordance with the Preliminary Approval Order, fully and accurately informed Settlement Class Members of all material elements of the Settlement and constituted the best notice practicable under the circumstances, and fully satisfied the requirements of 735 ILCS 5/2-803, applicable law, and the Due Process Clauses of the U.S. Constitution and Illinois Constitution.

- **Sanders et al. v. Ibex Global Solutions, Inc. et al.**, No. 1:22-CV-00591 (D.D.C.), Judge Trevor N. McFadden on March 10, 2023:

An affidavit or declaration of the Settlement Administrator's compliance with the Notice process has been filed with the Court. The Notice process as set forth in the Settlement Agreement and ordered in the Preliminary Approval Order constitutes the best notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Class Members in accordance with the requirements of Federal Rule of Civil Procedure 23(c)(2).

- **Vaccaro v. Super Care, Inc.**, No. 20STCV03833 (Cal. Superior Court), Judge David S. Cunningham on March 10, 2023:

The Class Notice provided to the Settlement Class conforms with the requirements of California Code of Civil Procedure § 382, the California and United States Constitutions, and any other applicable law, and constitutes the best notice practicable under the circumstances, by providing individual notice to all Class Members who could be identified through reasonable effort, and by providing due and adequate notice of the proceedings and of the matters set forth therein to the other Class Members. The notice fully satisfied the requirements of Due Process.

- **Gonshorowski v. Spencer Gifts, LLC**, No. ATL-L-000311-22 (N.J. Super. Ct.), Judge Danielle Walcoff on March 3, 2023:

The Court finds that the Notice issued to the Settlement Class, as ordered in the Amended Preliminary Approval Order, constitutes the best possible notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Settlement Class Members in compliance with New Jersey Court Rules 4:32-2(b)(2) and (e)(1)(B) and due process.

- **Vaccaro v. Delta Drugs II, Inc.**, No. 20STCV28871 (Cal. Superior Court), Judge Elihu M. Berle on March 2, 2023:

The Class Notice provided to the Settlement Class conforms with the requirements of California Code of Civil Procedure § 382, the California and United States Constitutions, and any other applicable law, and constitutes the best notice practicable under the circumstances, by providing individual notice to all Class Members who could be identified through reasonable effort, and by providing due and adequate notice of the proceedings and of the matters set forth therein to the other Class Members. The notice fully satisfied the requirements of Due Process.

- **Pagan, et al. v. Faneuil, Inc.**, No. 3:22-CV-297 (E.D. Va), Judge Robert E. Payne on February 16, 2023:

The Court finds that the Notice Program, set forth in the Settlement Agreement and effectuated pursuant to the Preliminary Approval Order, was the best notice practicable under the circumstances, was reasonably calculated to provide and did provide due and sufficient notice to the Settlement Class of the pendency of the Action, certification of the Settlement Class for settlement purposes only, the existence and terms of the Settlement Agreement, and their right to object and to appear at the final approval hearing or to exclude themselves from the Settlement Agreement, and satisfied the requirements of the Federal Rules of Civil Procedure, the United States Constitution, and other applicable law.



- **LaPrairie v. Presidio, Inc., et al.**, No. 1:21-CV-08795-JFK (S.D.N.Y.), Judge Andrew L. Carter, Jr. on December 12, 2022:

The Court hereby fully, finally and unconditionally approves the Settlement embodied in the Settlement Agreement as being a fair, reasonable and adequate settlement and compromise of the claims asserted in the Action. The Class Members have been given proper and adequate notice of the Settlement, fairness hearing, Class Counsel's application for attorneys' fees, and the service award to the Settlement Class Representative. An affidavit or declaration of the Settlement Administrator's compliance with the Notice process has been filed with the Court. The Notice process as set forth in the Settlement Agreement and ordered in the Preliminary Approval Order constitutes the best notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Class Members in accordance with the requirements of Federal Rule of Civil Procedure 23(c)(2).

- **Nelson v. Bansley & Kiener, LLP**, No. 2021-CH-06274 (Circuit Court of Cook County, IL), Judge Sophia H. Hall on November 30, 2022:

The court finds that such Notice as therein ordered, constitutes the best possible notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Settlement Class Members in compliance with requirements of 735 ILCS 5/2-801, et seq.

- **Buck, et al. v. Northwest Commercial Real Estate Investments, LLC, et al.**, No. 21-2-03929-1-SEA (Superior Court King County, WA), Judge Douglass A. North on September 30, 2022:

Pursuant to the Court's Preliminary Approval Order, Postcard Notice was distributed to the Class by First Class mail and Email Notice was distributed to all Class Members for whom the Settlement Administrator had a valid email address. The Court hereby finds and concludes that Postcard and Email Notice was disseminated to members of the Settlement Class in accordance with the terms set forth in the Settlement and in compliance with the Court's Preliminary Approval Order. The Court further finds and concludes that the Postcard and Email Notice, and the distribution procedures set forth in the Settlement fully satisfy CR 23(c)(2) and the requirements of due process, were the best notice practicable under the circumstances, provided individual notice to all members of the Class who could be identified through reasonable effort, provided an opportunity for the Class Members to object or exclude themselves from the Settlement, and support the Court's exercise of jurisdiction over the Settlement Class Members as contemplated in the Settlement and this Final Approval Order.



- **Rivera, et al. v. Google LLC**, No. 2019-CH-00990 (Circuit Court of Cook County, IL), Judge Anna M. Loftus on September 28, 2022:

Pursuant to this Court's Order granting preliminary approval of the Settlement, Postlethwaite & Netterville, APAC ("P&N") served as Settlement Administrator. This Court finds that the Settlement Administrator performed all duties thus far required as set forth in the Settlement Agreement.

The Court finds that the Settlement Administrator has complied with the approved notice process as confirmed by its Declaration filed with the Court. The Court further finds that the Notice plan set forth in the Settlement as executed by the Settlement Administrator satisfied the requirements of Due Process and 735 ILCS 5/2-803. The Notice plan was reasonably calculated and constituted the best notice practicable to apprise Settlement Class Members of the nature of this litigation, the scope of the Settlement Class, the terms of the Settlement, the right of Settlement Class Members to object to the Settlement or exclude themselves from the Settlement Class and the process for doing so, and of the Final Approval Hearing. Accordingly, the Court finds and concludes that the Settlement Class Members have been provided the best notice practicable under the circumstances, and that the Notice plan was clearly designed to advise the Settlement Class Members of their rights.

- **Davonna James, individually and on behalf of all others similarly situated v. CohnReznick LLP**, No. 1:21-cv-06544 (S.D.N.Y.), Judge Lewis J. Liman on September 21, 2022:

The Court finds that such Notice as therein ordered, constitutes the best possible notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Settlement Class Members in compliance with the requirements of Federal Rule of Civil Procedure 23(c)(2).

- **Patricia Davidson, et al. v. Healthgrades Operating Company, Inc.**, No. 21-cv-01250-RBJ (D. Colo), Judge R. Brooke Jackson on August 22, 2022:

The Court finds that such Notice as therein ordered, constitutes the best possible notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Settlement Class Members in compliance with the requirements of Federal Rule of Civil Procedure 23(c)(2).

- **Hosch et al. v. Drybar Holdings LLC**, No. 2021-CH-01976 (Circuit Court of Cook County, IL), Judge Pamela M. Meyerson on June 27, 2022:

The Court has determined that the Notice given to the Settlement Class Members, in accordance with the Preliminary Approval Order, fully and accurately informed



Settlement Class Members of all material elements of the Settlement and constituted the best notice practicable under the circumstances, and fully satisfied the requirements of 735 ILCS 5/2-803, applicable law, and the Due Process Clauses of the U.S. Constitution and Illinois Constitution.

- **Baldwin et al. v. National Western Life Insurance Company**, No. 2:21-cv-04066-WJE (W.D. MO), Judge Willie J. Epps, Jr. on June 16, 2022:

The Court finds that such Notice as therein ordered, constituted the best possible notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Settlement Class Members in compliance with the requirements of Rule 23(c)(2).

- **Chapman et al. v. voestalpine Texas Holding LLC**, No. 2:17-cv-174 (S.D. Tex.), Judge Nelva Gonzales Ramos on June 15, 2022:

The Class and Collective Notice provided pursuant to the Agreement and the Order Granting Preliminary Approval of Class Settlement:

- Constituted the best practicable notice, under the circumstances;*
- Constituted notice that was reasonably calculated to apprise the Class Members of the pendency of this lawsuit, their right to object or exclude themselves from the proposed settlement, and to appear at the Fairness Hearing;*
- Was reasonable and constituted due, adequate, and sufficient notice to all persons entitled to receive notice; and*
- Met all applicable requirements of the Federal Rules of Civil Procedure and the Due Process Clause of the United States Constitution because it stated in plain, easily understood language the nature of the action; the definition of the class certified; the class claims, issues, or defenses; that a class member may enter an appearance through an attorney if the member so desires; that the court will exclude from the class any member who requests exclusion; the time and manner for requesting exclusion; and the binding effect of a class judgment on members under Rule 23(c)(3).*

- **Clopp et al. v. Pacific Market Research LLC**, No. 21-2-08738-4 (Superior Court King County, WA), Judge Kristin Richardson on May 27, 2022:

The Court finds that such Notice as therein ordered, constitutes the best possible notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Settlement Class Members in compliance with the requirements of Washington Civil Rule 23(c)(2).



- **Whitlock v. Christian Homes, Inc., et al**, No. 2020L6 (Circuit Court of Logan County, IL), Judge Jonathan Wright on May 6, 2022:

The Court has determined that the Notice given to the Settlement Class Members, in accordance with the Preliminary Approval Order, fully and accurately informed Settlement Class Members of all material elements of the Settlement and constituted the best notice practicable under the circumstances, and fully satisfied the requirements of 735 ILCS 5/2-803, applicable law, and the Due Process Clauses of the U.S. Constitution and Illinois Constitution.

- **Hanson v. Welch Foods Inc.**, No. 3:20-cv-02011-JCS (N.D. Cal.), Judge Joseph C. Spero on April 15, 2022:

The Class Notice and claims submission procedures set forth in Sections 5 and 9 of the Settlement Agreement, and the Notice Plan detailed in the Declaration of Brandon Schwartz filed on October 1, 2021, fully satisfy Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process, were the best notice practicable under the circumstances, provided individual notice to all Settlement Class Members who could be identified through reasonable effort, and support the Court's exercise of jurisdiction over the Settlement Class as contemplated in the Settlement Agreement and this Order. See Fed. R. Civ. P. 23(e)(2)(C)(ii).

- **Dein v. Seattle City Light**, No. 19-2-21999-8 SEA (Superior Court King County, WA), Judge Kristin Richardson on April 15, 2022:

The Court hereby finds and concludes that the notice was disseminated to Settlement Class Members in accordance with the terms set forth in the Settlement and in compliance with the Court's Preliminary Approval Order. The Court further finds and concludes that the notice fully satisfies CR 23(c)(2) and the requirements of due process, was the best notice practicable under the circumstances, provided individual notice to all members of the Class who could be identified through reasonable effort, and provided an opportunity for the Class Members to object to or exclude themselves from the Settlement.

- **Frank v. Cannabis & Glass, LLC, et al**, No. 19-cv-00250 (E.D. Wash.), Judge Stanley A. Bastian on April 11, 2022:

Postlethwaite & Netterville, APAC, ("P&N"), the Settlement Administrator approved by the Court, completed the delivery of Class Notice according to the terms of the Agreement. The Class Text Message Notice given by the Settlement Administrator to the Settlement Class, which set forth the principal terms of the Agreement and other matters, was the best practicable notice under the circumstances, including



individual notice to all Settlement Class Members who could be identified through reasonable effort.

- **McMorrow, et al. v. Mondelez International, Inc.**, No. 17-cv-02327 (S.D. Cal.), Judge Cynthia Bashant on April 8, 2022:

Notice was administered nationwide and achieved an overwhelmingly positive outcome, surpassing estimates from the Claims Administrator both in the predicted reach of the notice (72.94% as compared to 70%) as well as in participation from the class (80% more claims submitted than expected). (Schwartz Decl. ¶ 14, ECF No. 206-1; Final App. Mot. 3.) Only 46 potential Class Members submitted exclusions (Schwartz Decl. ¶ 21), and only one submitted an objection—however the objection opposes the distribution of fees and costs rather than the settlement itself. (Obj. 3.) The Court agrees with Plaintiffs that the strong claims rate, single fee-related objection, and low opt-out rate weigh in favor of final approval.

- **Daley, et al. v. Greystar Management Services LP, et al.**, No. 2:18-cv-00381 (E.D. Wash.), Judge Salvador Mendoz, Jr. on February 1, 2022:

The Settlement Administrator completed the delivery of Class Notice according to the terms of the Agreement. The Class Notice given by the Settlement Administrator to the Settlement Class...was the best practicable notice under the circumstances. The Class Notice program...was reasonable and provided due and adequate notice of these proceedings and of the matters set forth therein, including the terms of the Agreement, to all parties entitled to such notice. The Class Notice given to the Settlement Class Members satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure and the requirements of constitutional due process. The Class Notice was reasonably calculated under the circumstances to apprise Settlement Class Members of the pendency of this Action....

- **Mansour, et al. v. Bumble Trading, Inc.**, No. RIC1810011 (Cal. Super.), Judge Sunshine Sykes on January 27, 2022:

The Court finds that the Class Notice and the manner of its dissemination constituted the best practicable notice under the circumstances and was reasonably calculated, under all the circumstances, to apprise Settlement Class Members of the pendency of the Litigation, the terms of the Agreement, and their right to object to or exclude themselves from the Settlement Class. The Court finds that the notice was reasonable, that it constituted due, adequate and sufficient notice to all persons entitled to receive notice, and that it met the requirements of due process, Rules of Court 3.766 and 3.769(f), and any other applicable laws.



- **Hadley, et al. v. Kellogg Sales Company**, No. 16-cv-04955 (N.D. Cal.), Judge Lucy H. Koh on November 23, 2021:

The Class Notice and claims submission procedures set forth in Sections 4 and 6 of the Settlement Agreement, and the Notice Plan filed on March 10, 2021, fully satisfy Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process, were the best notice practicable under the circumstances, provided individual notice to all Settlement Class Members who could be identified through reasonable effort, and support the Court's exercise of jurisdiction over the Settlement Classes as contemplated in the Settlement Agreement and this Order. See Fed. R. Civ. P. 23(e)(2)(C)(ii).

- **Miracle-Pond, et al. v. Shutterfly, Inc.**, No. 2019-CH-07050 (Circuit Court of Cook County, IL), Judge Raymond W. Mitchell on September 9, 2021:

This Court finds that the Settlement Administrator performed all duties thus far required as set forth in the Settlement Agreement. The Court finds that the Settlement Administrator has complied with the approved notice process as confirmed by its Declaration filed with the Court. The Court further finds that the Notice plan set forth in the Settlement as executed by the Settlement Administrator satisfied the requirements of Due Process and 735 ILCS 5/2-803. The Notice plan was reasonably calculated and constituted the best notice practicable to apprise Settlement Class Members of the nature of this litigation, the scope of the Settlement Class, the terms of the Settlement, the right of Settlement Class Members to object to the Settlement or exclude themselves from the Settlement Class and the process for doing so, and of the Final Approval Hearing. Accordingly, the Court finds and concludes that the Settlement Class Members have been provided the best notice practicable under the circumstances, and that the Notice plan was clearly designed to advise the Settlement Class Members of their rights.

- **Jackson-Battle, et al. v. Navicent Health, Inc.**, No. 2020-CV-072287 (Ga Super.), Judge Jeffery O. Monroe on August 4, 2021:

The Court finds that such Notice as therein ordered, constitutes the best possible notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Settlement Class Members in compliance with the requirements of O.C.G.A. §§ 9-11-23(c)(2).

- **In re: Interior Molded Doors Indirect Purchasers Antitrust Litigation**, No. 3:18-cv-00850 (E.D. Va.), Judge John A. Gibney on July 27, 2021:

The notice given to the Settlement Class of the settlement set forth in the Settlement Agreement and the other matters set forth herein was the best notice practicable



under the circumstances. Said notice provided due and adequate notice of the proceedings and of the matters set forth therein, including the proposed settlement set forth in the Settlement Agreement, to all persons and entities entitled to such notice, and said notice fully satisfied the requirements of Rules 23(c)(2) and 23(e) and the requirements of due process.

- **Krommenhock, et al. v. Post Foods, LLC**, No. 16-cv-04958 (N.D. Cal.), Judge William H. Orrick on June 25, 2021:

The Class Notice and claims submission procedures set forth in Sections 4 and 6 of the Settlement Agreement and the Notice Plan filed on January 18, 2021 fully satisfy Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process, were the best notice practicable under the circumstances, provided individual notice to all Settlement Class Members who could be identified through reasonable effort, and support the Court's exercise of jurisdiction over the Settlement Classes as contemplated in the Settlement Agreement and this Order. See Fed. R. Civ. P. 23(e)(2)(C)(ii).

- **Winters, et al. v. Two Towns Ciderhouse, Inc**, No. 20-cv-00468 (S.D. Cal.), Judge Cynthia Bashant on May 11, 2021:

The settlement administrator, Postlethwaite and Netterville, APAC ("P&N") completed notice as directed by the Court in its Order Granting Preliminary Approval of the Class Action Settlement. (Decl. of Brandon Schwartz Re: Notice Plan Implementation and Settlement Administration ("Schwartz Decl.") ¶¶ 4–14, ECF No. 24-5.)...Thus, the Court finds the Notice complies with due process....With respect to the reaction of the class, it appears the class members' response has been overwhelmingly positive.

- **Siddle, et al. v. The Duracell Company, et al.**, No. 4:19-cv-00568 (N.D. Cal.), Judge James Donato on April 19, 2021:

The Court finds that the Class Notice and Claims Administration procedures set forth in the Agreement fully satisfy Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process, were the best notice practicable under the circumstances, provided due and sufficient individual notice to all persons in the Settlement Class who could be identified through reasonable effort, and support the Court's exercise of jurisdiction over the Settlement Class as contemplated in the Agreement and this Final Approval Order.



- **Fabricant v. Amerisave Mortgage Corporation**, No. 19-cv-04659-AB-AS (C.D. Cal.), Judge Andre Birotte, Jr. on November 25, 2020:

The Class Notice provided to the Settlement Class conforms with the requirements of Fed. Rule Civ. Proc. 23, the California and United States Constitutions, and any other applicable law, and constitutes the best notice practicable under the circumstances, by providing individual notice to all Settlement Class Members who could be identified through reasonable effort, and by providing due and adequate notice of the proceedings and of the matters set forth therein to the other Settlement Class Members. The notice fully satisfied the requirements of Due Process. No Settlement Class Members have objected to the terms of the Settlement.

- **Snyder, et al. v. U.S. Bank, N.A., et al.**, No. 1:16-CV-11675 (N.D. Ill), Judge Matthew F. Kennelly on June 18, 2020:

The Court makes the following findings and conclusions regarding notice to the Settlement Class:

a. The Class Notice was disseminated to persons in the Settlement Class in accordance with the terms of the Settlement Agreement and the Class Notice and its dissemination were in compliance with the Court's Preliminary Approval Order;
b. The Class Notice: (i) constituted the best practicable notice under the circumstances to potential Settlement Class Members, (ii) constituted notice that was reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Consolidated Litigation, their right to object or to exclude themselves from the proposed Settlement, and their right to appear at the Final Approval Hearing, (iii) was reasonable and constituted due, adequate, and sufficient individual notice to all persons entitled to be provided with notice, and (iv) complied fully with the requirements of Fed. R. Civ. P. 23, the United States Constitution, the Rules of this Court, and any other applicable law.

- **Edward Makaron et al. v. Enagic USA, Inc.**, No. 2:15-cv-05145 (C.D. Cal.), Judge Dean D. Pregerson on January 16, 2020:

The Court makes the following findings and conclusions regarding notice to the Class:

a. The Class Notice was disseminated to persons in the Class in accordance with the terms of the Settlement Agreement and the Class Notice and its dissemination were in compliance with the Court's Preliminary Approval Order;

b. The Class Notice: (i) constituted the best practicable notice under the circumstances to potential Class Members, (ii) constituted notice that was reasonably



calculated, under the circumstances, to apprise Class Members of the pendency of the Action, their right to object or to exclude themselves from the proposed Settlement, and their right to appear at the Final Approval Hearing, (iii) was reasonable and constituted due, adequate, and sufficient individual notice to all persons entitled to be provided with notice, and (iv) complied fully with the requirements of Fed. R. Civ. P. 23, the United States Constitution, the Rules of this Court, and any other applicable law.

- **Kimberly Miller et al. v. P.S.C, Inc., d/b/a Puget Sound Collections**, No. 3:17-cv-05864 (W. D. Wash.), Judge Ronald B. Leighton on January 10, 2020:

The Court finds that the notice given to Class Members pursuant to the terms of the Agreement fully and accurately informed Class Members of all material elements of the settlement and constituted valid, sufficient, and due notice to all Class Members. The notice fully complied with due process, Rule 23 of the Federal Rules of Civil Procedure, and all other applicable law.

- **John Karpilovsky and Jimmie Criollo, Jr. et al. v. All Web Leads, Inc.**, No. 1:17-cv-01307 (N.D. Ill), Judge Harry D. Leinenweber on August 8, 2019:

The Court hereby finds and concludes that Class Notice was disseminated to members of the Settlement Class in accordance with the terms set forth in the Settlement Agreement and that Class Notice and its dissemination were in compliance with this Court's Preliminary Approval Order.

The Court further finds and concludes that the Class Notice and claims submission procedures set forth in the Settlement Agreement fully satisfy Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process, were the best notice practicable under the circumstances, provided individual notice to all Settlement Class Members who could be identified through reasonable effort, and support the Court's exercise of jurisdiction over the Settlement Class as contemplated in the Settlement and this Order.

- **Paul Story v. Mammoth Mountain Ski Area, LLC**, No. 2:14-cv-02422 (E.D. Cal.), Judge John A. Mendez on March 13, 2018:

The Court finds that the Settlement Administrator delivered the Class Notice to the Class following the procedures set forth in the Settlement Agreement; that the Class Notice and the procedures followed by the Settlement Administrator constituted the best notice practicable under the circumstances; and that the Class Notice and the procedures contemplated by the Settlement Agreement were in full compliance with the laws of the United States and the requirements of due process. These findings support final approval of the Settlement Agreement.



- **John Burford, et al. v. Cargill, Incorporated**, No. 05-0283 (W.D. La.), Judge S. Maurice Hicks, Jr. on November 8, 2012:

Considering the aforementioned Declarations of Carpenter and Mire as well as the additional arguments made in the Joint Motion and during the Fairness Hearing, the Court finds that the notice procedures employed in this case satisfied all of the Rule 23 requirements and due process.

- **In RE: FEMA Trailer Formaldehyde Product Liability Litigation**, MDL No. 1873, (E.D La.), Judge Kurt D. Engelhardt on September 27, 2012:

After completing the necessary rigorous analysis, including careful consideration of Mr. Henderson's Declaration and Mr. Balhoff's Declaration, along with the Declaration of Justin I. Woods, the Court finds that the first-class mail notice to the List of Potential Class Members (or to their attorneys, if known by the PSC), Publication Notice and distribution of the notice in accordance with the Settlement Notice Plan, the terms of the Settlement Agreement, and this Court's Preliminary Approval Order:

- (a) *constituted the best practicable notice to Class Members under the circumstances;*
- (b) *provided Class Members with adequate instructions and a variety of means to obtain information pertaining to their rights and obligations under the settlement so that a full opportunity has been afforded to Class Members and all other persons wishing to be heard;*
- (c) *was reasonably calculated, under the circumstances, to apprise Class Members of: (i) the pendency of this proposed class action settlement, (ii) their right to exclude themselves from the Class and the proposed settlement, (iii) their right to object to any aspect of the proposed settlement (including final certification of the settlement class, the fairness, reasonableness or adequacy of the proposed settlement, the adequacy of representation by Plaintiffs or the PSC, and/or the award of attorneys' fees), (iv) their right to appear at the Fairness Hearing - either on their own or through counsel hired at their own expense - if they did not exclude themselves from the Class, and (v) the binding effect of the Preliminary Approval Order and Final Order and Judgment in this action, whether favorable or unfavorable, on all persons who do not timely request exclusion from the Class;*
- (d) *was calculated to reach a large number of Class Members, and the prepared notice documents adequately informed Class Members of the class action, properly described their rights, and clearly conformed to the high standards for modern notice programs;*
- (e) *focused on the effective communication of information about the class action. The notices prepared were couched in plain and easily understood language and were written and designed to the highest communication standards;*



- (f) afforded sufficient notice and time to Class Members to receive notice and decide whether to request exclusion or to object to the settlement.;*
- (g) was reasonable and constituted due, adequate, effective, and sufficient notice to all persons entitled to be provided with notice; and*
- (h) fully satisfied the requirements of the Federal Rules of Civil Procedure, the United States Constitution, including the Due Process Clause, and any other applicable law.*



EXHIBIT 4

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA**

IN RE: NOVANT HEALTH, INC.

Civil Action No. 1:22-cv-00697

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

This matter is before the Court on Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement. Plaintiffs, individually and on behalf of the proposed Settlement Class, and Defendant Novant Health, Inc. have entered into a Settlement Agreement and Release, dated October 12, 2023 (“Settlement Agreement”) that, if approved, would settle the above-captioned litigation. Having considered the Motion, the Settlement Agreement together with all exhibits and attachments thereto, the record in this matter, and the briefs and arguments of counsel, IT IS HEREBY ORDERED as follows:

1. Unless otherwise defined herein, all terms that are capitalized herein shall have the same meaning ascribed to those terms in the Settlement Agreement.
2. The Court has jurisdiction over this litigation, Plaintiffs, Defendant, and Settlement Class Members, and any party to any agreement that is part of or related to the Settlement Agreement.

PRELIMINARY APPROVAL

3. The Court has reviewed the terms of the proposed Settlement Agreement, the exhibits and attachments thereto, Plaintiffs’ motion papers and briefs, and the declarations of counsel and the Claims Administrator. Based on its review of these papers, the Court finds that the Settlement Agreement appears to be the result of serious, informed, non-collusive negotiations conducted with the assistance of renowned mediator Hunter Hughes, Esq. during a mediation

session on July 21, 2023 and follow up discussions through which the basic terms of the Settlement were negotiated and finalized. The Court further observes that the Settlement Agreement is the product of an informal exchange of information between the Parties ahead of the mediation session. The terms of the Settlement Agreement do not improperly grant preferential treatment to any individual or segment of the Settlement Class and fall within the range of possible approval as fair, reasonable, and adequate.

4. The Court therefore GRANTS preliminary approval of the Settlement Agreement and all of the terms and conditions contained therein.

PRELIMINARY CERTIFICATION OF SETTLEMENT CLASS

5. Pursuant to Federal Rule of Civil Procedure 23, the Court preliminarily certifies, for settlement purposes only, the Settlement Class defined in the Settlement Agreement as follows: All individuals residing in the United States who Defendant identified as potentially having their personal or health-related information disclosed to a third party because of Defendant's use of certain Internet tracking technology on its websites and MyChart patient portal between May 1, 2020 and August 12, 2022. Excluded from the Class are (i) Defendant, any entity in which Defendant has a controlling interest, and Defendant's affiliates, parents, subsidiaries, officers, directors, legal representatives, successors, subsidiaries, and assigns; (ii) any judge, justice, or judicial officer presiding over this Litigation and the members of their immediate families and judicial staff; and (iii) any individual who timely and validly excludes themselves from the Settlement.

6. The Court preliminarily finds that the Settlement Class satisfies the requirements of Federal Rule of Civil Procedure 23(a) for settlement purposes only: the Settlement Class is comprised of over 1 million individuals; there are questions of law or fact common to the Settlement

Class; the Class Representatives' claims are typical of those of Settlement Class Members; and the Class Representatives will fairly and adequately protect the interests of the Settlement Class.

7. The Court preliminarily finds that the Settlement Class satisfies the requirements of Federal Rule of Civil Procedure 23(b)(3) for settlement purposes only: the questions of law or fact common to the Settlement Class predominate over individual questions; and class action litigation is superior to other available methods for the fair and efficient adjudication of this controversy.

8. The Court hereby appoints Keith David Allen, Karyn Cook, Daymond Cox, Kevin Curry, Meghan Curry, Dr. Richard Nero, David Novack, Cheryl Taylor, Fernando Valencia, and Natalie Wells-Reyes as the Class Representatives of the Settlement Class. The Court provisionally finds that the Class Representatives are similarly situated to absent Settlement Class Members and therefore typical of the Class and that they will be adequate Class Representatives.

9. The Court finds the following counsel are experienced and adequate counsel and appoints them as Class Counsel for the Settlement: Gary M. Klinger and David K. Lietz of Milberg Coleman Bryson Phillips Grossman, PLLC, located at 227 W. Monroe Street, Suite 2100, Chicago, IL 60606; Terence R. Coates of Markovits, Stock & DeMarco, LLC, located at 119 E. Court Street, Suite 530, Cincinnati, OH 45202; Bryan L. Bleichner of Chestnut Cambronne PA, located at 100 Washington Ave., Ste. 1700, Minneapolis, MN 55401-2138; M. Anderson Berry of Clayco C. Arnold, A Professional Law Corp., located at 865 Howe Ave., Sacramento, CA 95825; Joseph M. Lyon of The Lyon Firm, LLC, located at 2754 Erie Ave., Cincinnati, OH 45208; and Rachele R. Byrd of Wolf Haldenstein Adler Freeman & Herz, LLP, located at Symphony Towers, 750 B Street, Suite 1820, San Diego, CA 92101.

NOTICE AND ADMINISTRATION

10. Pursuant to the Settlement Agreement, Class Counsel will engage Postlethwaite & Netterville (“P&N”) as the Settlement Administrator. P&N shall perform all the duties of the Settlement Administrator set forth in the Settlement Agreement.

11. The Court finds that the Class Notice and Notice Program set forth in the Settlement Agreement satisfy the requirements of due process and Rule 23 of the Federal Rules of Civil Procedure and provide the best notice practicable under the circumstances. The Class Notice and Notice Program are reasonably calculated to apprise Settlement Class Members of the nature of this Litigation, the scope of the Settlement Class, the terms of the Settlement Agreement, the right of Settlement Class Members to object to the Settlement Agreement or exclude themselves from the Settlement Class and the processes for doing so, and the Final Approval Hearing. The Court therefore approves the Class Notice and Notice Program and directs the Settlement Administrator to proceed with providing notice to Settlement Class Members pursuant to the terms of the Settlement Agreement and this Order.

12. The Settlement Administrator shall commence the Notice Program within the time required by the Settlement Agreement.

13. The Court also approves the Claim Form.

EXCLUSION AND OBJECTIONS

14. Settlement Class Members who wish to opt out and exclude themselves from the Settlement Class may do so by notifying the Settlement Administrator in writing, postmarked no later than _____ (120 calendar days after entry of this Order). To be valid, each request for exclusion must be made in writing and: (a) state the Settlement Class Member’s full name, address and telephone number; (b) include the case name and number of the Litigation (*In*

re: Novant Health, Inc., Case No. 1:22-cv-00697); (c) contain the Settlement Class Member's personal and original signature; and (d) state unequivocally the Settlement Class Member's intent to be excluded from the Settlement. All Requests for Exclusion must be submitted individually in connection with a Settlement Class Member, *i.e.*, one request is required for every Settlement Class Member seeking exclusion. Any request seeking exclusion of more than one Settlement Class Member will be invalid and rejected by the Settlement Administrator.

15. All Settlement Class Members who do not opt out and exclude themselves shall be bound by the terms of the Settlement Agreement upon entry of a Final Approval Order and Judgment.

16. Settlement Class Members who wish to object to the Settlement may do so by submitting a written Objection to the Court in accordance with the procedures outlined in the Class Notice, postmarked no later than _____ (120 calendar days after entry of this Order). Any Settlement Class Member wishing to comment on or object to the Settlement Agreement shall file their Objection with the Court. All such written objections to the Settlement Agreement must include all of the following: (i) the Settlement Class Member's full name, current address, telephone number, and email address; (ii) the case name and number of the Litigation (*In re: Novant Health, Inc.*, Case No. 1:22-cv-00697 (M.D.N.C.)); (iii) the Settlement Class Member's personal and original signature; (iv) a statement indicating the basis for the Settlement Class Member's belief that he or she is a member of the Settlement Class; (v) a statement of the legal and/or factual basis for the objection; (vi) a statement about whether the objection applies only to the Settlement Class Member, to a specific subset of the Settlement Class, or to the entire Settlement Class; (vii) if the Settlement Class Member is represented by an attorney, or received assistance from an attorney in drafting the objection, the name, address, telephone number, and email address of the attorney; and

(viii) a statement of whether the Settlement Class Member intends to appear at the Final Approval Hearing, and if so, whether personally or through his or her attorney.

17. If an objecting Settlement Class Member is represented by an attorney, and such attorney intends to speak at the Final Approval Hearing, the written objection must also include: (i) the identity of witnesses whom the Settlement Class Member intends to call to testify at the Final Approval Hearing; (ii) a description of any documents or evidence that the Settlement Class Member intends to offer at the Final Approval Hearing; and (iii) a list, including case name, court, and docket number, of all other cases in which the Settlement Class Member or their attorney has filed an objection to any proposed class action settlement in the past three (3) years.

18. Any Settlement Class Member who does not timely submit a written objection in accordance with these procedures and the procedures detailed in the Class Notice and Settlement Agreement shall be deemed to have waived any objection, shall not be permitted to object to the Settlement, and shall be precluded from seeking any review of the Settlement Agreement or the Final Approval Order by appeal or other means.

FINAL APPROVAL HEARING

19. The Court will hold a Final Approval Hearing on _____ at _____ in the United States District Court, Middle District of North Carolina, Winston-Salem Division, 324 W. Market St., Greensboro, North Carolina 27401.

20. At the Final Approval Hearing, the Court will consider whether: (a) the Settlement is fair, reasonable, and adequate; (b) the Settlement Class should be finally certified; (c) the preliminary appointment of Class Counsel should be made final; (d) the preliminary appointment of the Class Representatives should be made final; (e) Class Counsel's motion for

Attorneys' Fees and Litigation Expenses should be granted; (f) the Service Awards sought for Class Representatives should be granted; and (g) a final judgment should be entered.

21. The Court reserves the right to continue the date of the Final Approval Hearing without further notice to Settlement Class Members.

DEADLINES, INJUNCTION & TERMINATION

<u>From Order Granting Preliminary Approval</u>	
Defendant will provide the list of available addresses for Settlement Class Members to the Settlement Administrator	+30 Days
Defendant's payment of Settlement Fund to Settlement Administrator	+30 Days
Notice Date	+60 Days
Counsel's Motion for Attorneys' Fees and Reimbursement of Litigation Costs and Expenses	+105Days
Objection Date	+120 Days
Opt-Out Date	+120 Days
Claim Deadline	+150 Days
<u>Final Approval Hearing</u>	
Motion for Final Approval	160 Days from Order Granting Preliminary Approval 14 Days before Final Approval Hearing
<u>From Effective Date</u>	
Payment of Attorneys' Fees and Litigation Expenses and Class Representatives' Service Awards	+30 Days
Mailing of Claim Payments to Claimants	+30 Days
Cy Pres Distribution of the Residual Funds	+120 Days after the issuance of the last settlement payment to a Class Member
Deactivation of Settlement Website	+120 Days

22. All proceedings and deadlines in this matter, except those necessary to implement this Order and the Settlement, are hereby stayed and suspended until further order of the Court.

23. All Settlement Class Members who do not validly opt out and exclude themselves are hereby enjoined from pursuing or prosecuting any of the Released Claims as set forth in the Settlement Agreement until further order of the Court.

24. In the event that the Settlement Agreement is terminated pursuant to the terms of the Settlement Agreement: (a) the Settlement Agreement and this Order shall become void, shall have no further force or effect, and shall not be used in the Litigation or any other proceedings for any purpose other than as may be necessary to enforce the terms of the Settlement Agreement that survive termination; (b) this matter will revert to the status that existed before execution of the Settlement Agreement; and (c) no term or draft of the Settlement Agreement or any part of the Parties' settlement discussions, negotiations or documentation (including any briefs filed in support of preliminary or final approval of the Settlement) shall be (i) admissible into evidence for any purpose in this Litigation or in any other action or proceeding other than as may be necessary to enforce the terms of the Settlement Agreement that survive termination, (ii) deemed an admission or concession by any Settling Party regarding the validity of any of the Released Claims or the propriety of certifying any class against Defendant, or (iii) deemed an admission or concession by any Party regarding the truth or falsity of any facts alleged in the Litigation or the availability or lack of availability of any defense to the Released Claims.

IT IS SO ORDERED.

Dated: _____

HON. CHIEF JUDGE CATHERINE C. EAGLES
UNITED STATES DISTRICT COURT JUDGE