

IN THE IOWA DISTRICT COURT FOR JOHNSON COUNTY

MICHAEL CLARK, individually and on behalf of all others similarly situated,)	
)	
Plaintiff,)	Case No. CVCV082275
)	
v.)	
)	
MERCY HOSPITAL, IOWA CITY, IOWA d/b/a Mercy Iowa City,)	
)	
Defendant.)	

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into by and between Michael Clark (“Plaintiff”), individually and on behalf of the Settlement Class (as defined below), by and through Settlement Class Counsel (as defined below), and Defendant Mercy Hospital, Iowa City, Iowa (“Mercy”) in order to effect a full and final settlement and dismissal with prejudice of all claims against Mercy alleged in the above-captioned litigation on the terms set forth below and to the full extent reflected herein. Capitalized terms shall have the meaning ascribed to them in Section II.1 of this Settlement Agreement.

I. RECITALS

1. The Litigation.

In or about June 2020, Mercy discovered that an unauthorized third party had sent a phishing e-mail to two Mercy employees. Mercy immediately launched an investigation and subsequently provided notice of this data incident to all individuals whose information may have been involved.

On January 20, 2021, Plaintiff, individually and on behalf of a putative class, filed an action against Mercy in the Iowa District Court for Johnson County styled *Michael Clark, individually and on behalf of all others similarly situated, v. Mercy Hospital, Iowa City, Iowa d/b/a Mercy Iowa*

City, Case No. CVCV082275, alleging claims arising from the aforementioned data incident. Specifically, Plaintiff asserted six causes of action against Mercy: (1) negligence; (2) breach of implied contract; (3) unjust enrichment; (4) breach of confidence; (5) violation of the Iowa Consumer Fraud Act (“ICFA”); and (6) violation of the Iowa Personal Information Security Breach Protection Act (“PIBSA”).

On March 18, 2021, Mercy filed a motion to dismiss, after which Plaintiff voluntarily withdrew Counts 5 and 6. On May 8, 2020, the Court denied Mercy’s motion. Mercy then filed an answer. The parties thereafter exchanged written discovery.

On October 21, 2021, the Parties engaged in a full-day mediation with Jeffrey Boehlert, Esq. of Boehlert Brownlee ADR. The Parties were able to reach an agreement on all the principal terms of settlement for this matter, subject to final mutual agreement on all necessary documentation.

2. Claims of Plaintiff and Benefits of Settling.

Plaintiff believes that the claims asserted in the Lawsuit, as set forth in the Petition, have merit. Plaintiff and Settlement Class Counsel recognize and acknowledge, however, the expense and length of continued proceedings necessary to prosecute the Lawsuit against Mercy through motion practice, trial, and potential appeals. They have also taken into account the uncertain outcome and risk of further litigation, as well as the difficulties and delays inherent in such litigation. Settlement Class Counsel are experienced in class action litigation and knowledgeable regarding the relevant claims, remedies, and defenses at issue generally in such litigation and in this Lawsuit. They have determined that the settlement set forth in this Settlement Agreement is fair, reasonable, and adequate, and in the best interests of the Settlement Class.

3. Denial of Wrongdoing and Liability.

Mercy denies each and all of the claims and contentions alleged against it in the Lawsuit.

Mercy denies all charges of wrongdoing or liability as alleged, or which could be alleged, in the Lawsuit. Nonetheless, Mercy has concluded that further defense of the Lawsuit would be protracted and expensive, and that it is desirable that the Lawsuit be fully and finally settled in the manner and upon the terms and conditions set forth in this Settlement Agreement. Mercy has taken into account the uncertainty and risks inherent in any litigation. Mercy has, therefore, determined that it is desirable and beneficial that the Lawsuit be settled in the manner and upon the terms and conditions set forth in this Settlement Agreement.

II. TERMS OF SETTLEMENT

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among Plaintiff, individually and on behalf of the Settlement Class, Settlement Class Counsel, and Mercy that, subject to the approval of the Court, the Lawsuit and the Released Claims shall be finally and fully compromised, settled, and released, and the Lawsuit shall be dismissed with prejudice as to the Parties, the Settlement Class, and the Settlement Class Members, except those Settlement Class Members who lawfully opt-out of the Settlement Agreement, upon and subject to the terms and conditions of this Settlement Agreement, as follows:

1. DEFINITIONS.

As used in this Settlement Agreement and its exhibits, the following terms have the meanings specified below:

1.1 “*Claim Deadline*” means 90 Days after the entry of preliminary approval of the settlement as set forth in Paragraph 10.1.

1.2 “*Claim Form*” means the form, attached as **Exhibit C** to this Settlement Agreement, which Settlement Class Members must complete and submit on or before the Claim Deadline in order to be eligible for the benefits described herein. The Claim Form shall require an actual or

electronic sworn signature under penalty of perjury but shall not require a notarization or any other form of verification.

1.3 “*Claims Administration*” means the processing and payment of claims received from Settlement Class Members by the Settlement Administrator.

1.4 “*Court*” means the Iowa District Court for Johnson County.

1.5 “*Days*” means calendar days, except, when computing any period of time prescribed or allowed by this Settlement Agreement, does not include the day of the act, event, or default from which the designated period of time begins to run. Further, when computing any period of time prescribed or allowed by this Settlement Agreement, include 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.

1.6 “*Effective Date*” means the date defined in Paragraph 14.1 of this Settlement Agreement.

1.7 “*Final*” means that all of the following events have occurred: (a) the settlement pursuant to this Settlement Agreement is approved by the Court; (b) the Court has entered the Final Order and Judgment; and (c) either (i) no appeal has been taken from the judgment as of the date on which all times to appeal or seek permission to appeal therefrom have expired, or (ii) an appeal or other review proceeding of the judgment having been commenced, such appeal or other review is finally concluded and no longer is subject to further review by any court, whether by appeal, petitions or rehearing or re-argument, petitions for rehearing *en banc*, petitions for writ of certiorari, or otherwise, and such appeal or other review has been finally resolved in a manner that affirms the Final Order and Judgment in all material respects. Notwithstanding the above, any

order modifying or reversing any Incentive Award or award of attorneys' fees or expenses shall not affect whether a judgment in this matter is Final or any other aspect of the judgment.

1.8 “*Final Approval Hearing*” means the hearing in the Lawsuit at which the Court considers final approval of this Settlement and the entry of the Final Order and Judgment.

1.9 “*Final Order and Judgment*” means the final judgment and order of dismissal with prejudice to be entered in the Lawsuit in connection with the approval of the Settlement after the Final Approval Hearing.

1.10 “*Mercy*” means Mercy Hospital, Iowa City, Iowa.

1.11 “*Mercy Counsel*” means Polsinelli PC and Phelan Tucker Law LLP, and their attorneys.

1.12 “*Lawsuit*” means the lawsuit, styled *Michael Clark, individually and on behalf of all others similarly situated, v. Mercy Hospital, Iowa City, Iowa d/b/a Mercy Iowa City*, Case No. CVCV082275 pending in the Iowa District Court in and for Johnson County, Iowa.

1.13 “*Data Incident*” means the phishing e-mail incident allegedly involving private information of current and/or former patients and guarantors of Mercy in or about May and June 2020.

1.14 “*Notice*” means the written notice to be sent or published to Settlement Class Members pursuant to the Preliminary Approval Order, attached as **Exhibits A and B**.

1.15 “*Notice and Claims Administration Costs*” means actual costs associated with or arising from providing notice to Settlement Class Members and performing Claims Administration in connection with the Settlement.

1.16 “*Notice Program*” means the notice program described in Section 5.

1.17 “*Parties*” means Plaintiff, individually and on behalf of the Settlement Class (as defined below), and Mercy.

1.18 “*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.

1.19 “*Petition*” means the Class Action Petition and Demand for Jury Trial filed by Plaintiff on January 20, 2021 in the Lawsuit.

1.20 “*Private Information*” shall mean “*Personally Identifiable Information*” and/or “*Protected Health Information*” and includes, but is not limited to, name, date of birth, Social Security number, medical record or patient account number, health insurance information and/or limited treatment or clinical information such as diagnosis, provider name and date(s) of service.

1.21 “*Plaintiff*” means Michael Clark.

1.22 “*Preliminary Approval Date*” means the date on which the Preliminary Approval Order has been entered by the Court.

1.23 “*Preliminary Approval Order*” means the order preliminarily approving the Settlement and providing for Notice to the Settlement Class, attached as **Exhibit D**.

1.24 “*Related Entities*” means Mercy’s past or present parents, subsidiaries, divisions, and related or affiliated entities, and each of Mercy’s and their respective predecessors, successors, directors, officers, employees, principals, agents, attorneys, insurers, and reinsurers, and includes, without limitation, any Person related to any such entity who is, was or could have been named as a defendant in the Lawsuit, other than any Person who is found by a court of competent jurisdiction

to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity associated with the Data Incident or who pleads *nolo contendere* to any such charge.

1.25 “*Released Claims*” means any and all past, present, and future claims, causes of action, counterclaims, lawsuits, rights, demands, charges, complaints, actions, obligations, or liabilities under any legal or equitable theory, whether known, unknown, suspected, or unsuspected or capable of being known or suspected, and whether, accrued, unaccrued, matured, or not matured, including but not limited to, negligence; negligence *per se*; negligent training and supervision; breach of fiduciary duty; breach of confidence; invasion of privacy; breach of contract; unjust enrichment; breach of implied contract; violations of the Iowa Consumer Fraud Act, Iowa Personal Information Security Breach Protection Act, and any other state or federal consumer protection statute; misrepresentation (whether fraudulent, negligent or innocent); bailment; wantonness; failure to provide adequate notice pursuant to any breach notification statute, regulation or common law duty; and any causes of action under 18 U.S.C. §§ 2701 *et seq.*, and all similar statutes in effect in any states in the United States as defined herein; and including, but not limited to, any and all claims for damages, injunctive relief, disgorgement, declaratory relief, equitable relief, attorneys’ fees, costs and expenses, set-offs, losses, pre-judgment interest, credit monitoring services, the creation of a fund for future damages, statutory damages, punitive damages, special damages, exemplary damages, restitution, the appointment of a receiver, and any other form of relief that either has been asserted, or could have been asserted, by any Settlement Class Member against any of the Released Persons based on, relating to, concerning, or arising out of the Data Incident and alleged exposure and compromise of any Settlement Class Member’s private information, personally identifiable information and/or protected health information or any other allegations, facts, or circumstances described in the Lawsuit or the Petition. Released Claims

shall 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 Settlement Agreement, and shall not include the claims of Persons who have timely and validly requested exclusion from the Settlement Class pursuant to the opt-out procedures set forth in this Settlement Agreement.

1.26 “*Released Persons*” means Mercy, the Related Entities, and each of their past or present parents, subsidiaries, divisions, and related or affiliated entities, and each of their respective predecessors, successors, assigns, owners, directors, officers, employees, principals, agents, attorneys, insurers, and reinsurers.

1.27 “*Settlement*” means the settlement of the Lawsuit upon the terms and conditions set forth in this Settlement Agreement.

1.28 “*Settlement Administrator*” means RG2 Claims Administration, LLC or another company experienced in administering class action claims generally and specifically those of the type provided for and made in Lawsuit, if jointly agreed upon by the parties and approved by the Court.

1.29 “*Settlement Agreement*” means this Settlement Agreement, including all exhibits hereto.

1.30 “*Settlement Class*” means all persons whose private information was maintained on Mercy’s computer systems and/or network that was compromised in the cyberattack and who were sent notice of the data breach. The Settlement Class includes approximately 92,000 individuals.

1.31 “*Settlement Class Counsel*” shall mean Brad Schroeder, Hartung Schroeder Law Firm, Gary M. Klinger, Mason Leitz & Klinger, LLP, and Syed A. Saeed, Saeed & Little, LLP.

1.32 “*Settlement Class Member[s]*” means all persons who fall within the definition of the Settlement Class.

1.33 “*Settlement Website*” means a dedicated website, www._____.com, created and maintained by the Settlement Administrator, which will contain relevant documents and information about the Settlement, including this Settlement Agreement, Notice, and Claim Form, among other things.

2. CLASS CERTIFICATION

2.1 Solely for the purpose of implementing this Settlement Agreement and effectuating the Settlement, Mercy agrees to stipulate to the certification of the Settlement Class and will not oppose Plaintiff’s request for certification.

2.2 Solely for the purpose of implementing this Settlement Agreement and effectuating the Settlement, Mercy stipulates that Plaintiff is an adequate representative of the Settlement Class, and that Settlement Class Counsel are adequate counsel for the Settlement Class.

2.3 If the Settlement set forth in this Settlement Agreement is not approved by the Court, or if the Settlement Agreement is terminated or cancelled pursuant to the terms of this Settlement Agreement, this Settlement Agreement, and the certification of the Settlement Class provided for herein, shall be vacated and the Lawsuit shall proceed as though the Settlement Class had never been certified, without prejudice to any Person’s or Party’s position on the issue of class certification or any other issue. The Parties’ agreement to the certification of the Settlement Class is also without prejudice to any position asserted by the Parties in any other proceeding, case, or action, as to which all of their rights are specifically preserved. In the event of non-approval, termination or cancellation of this Settlement Agreement, Mercy or its insurer shall be responsible for administration and notification costs incurred, if any, but shall have no other payment, reimbursement or other financial obligation of any kind as a result of this Settlement Agreement.

3. SETTLEMENT BENEFITS.

Subject to the terms of this Settlement Agreement, Mercy or its insurer shall make available

the following compensation to Settlement Class Members:

3.1 Monetary Compensation for Losses: Settlement Class Members may choose all applicable claim categories below. The overall compensation cap for any individual claimant is \$250.00 for all amounts claimed in Claim A and \$2,500.00 for all amounts claimed in Claim B.

(a) Claim A: Compensation for Ordinary Losses. Settlement Class Members will be eligible for compensation for ordinary losses, as defined below, up to a total of \$250.00 per claimant, upon submission of a valid claim form and supporting documentation, if applicable. Ordinary losses may include (i) unreimbursed losses relating to fraud or identity theft; professional fees including attorneys' fees, accountants' fees, and fees for credit repair services; costs associated with freezing or unfreezing credit with any credit reporting agency; credit monitoring costs that were incurred on or after May 15, 2020, through the date of preliminary approval; and miscellaneous expenses such as notary, fax, postage, copying, mileage, and long-distance telephone charges; and (ii) up to 6 hours of lost time (at \$20.00 per hour) comprised of 3 hours of attested time and up to an additional 3 hours with documentation, provided that the claimant certifies that the lost time was spent in response to the Data Incident. The maximum amount any one claimant may recover under Claim A is \$250.00.

(b) Claim B: Compensation for Extraordinary Losses. Settlement Class Members will be eligible for compensation for extraordinary losses, including proven monetary losses, upon submission of a Valid Claim Forms provided that (i) the loss is an actual documented and unreimbursed monetary loss; (ii) the loss was more likely than not caused by the Data Incident; (iii) the loss is not already covered by one or more of the ordinary loss compensation categories under Claim A; (iv) the claimant made reasonable

efforts to avoid the loss or seek reimbursement for the loss including but not limited to exhaustion of all available credit monitoring insurance and identity theft insurance; and (v) the loss occurred between the date of May 15, 2020 and the Claims Deadline. The maximum amount any one claimant may recover under Claim B is \$2,500.00.

3.2 Identity Theft Monitoring. All Class Members will be offered one (1) year of Experian Identity Monitoring without the requirement of filing a Claim. The identity monitoring offer will be included in the Class Notice mailed to Class Members.

3.3 Plaintiff's counsel intends to submit a request to the Court for approval of attorney's fees and expenses not to exceed two hundred twenty thousand and No/100 Dollars (\$220,000). Plaintiff also will seek the Court's approval of a class representative Service Award not to exceed one thousand and No/100 dollars (\$1,000).

3.4 Payment of compensation to Class Members and payment of Service Award are understood and agreed by the Parties to be payments in compromise of disputed claims and not payments of contractually-based obligations of Mercy, such as, for example, refunds of amounts paid or payable to Mercy for medical care. It is also understood and agreed by the Parties that payment of compensation to Class Members and payment of an Incentive Award are not subject to set-off or recoupment in the event unpaid bills or other amounts are due Mercy from the payee of such compensation or award.

4. SETTLEMENT ADMINISTRATION.

4.1 All Notice and Claims Administration Costs will be paid by Mercy.

4.2 The Parties have agreed to request that the Court appoint RG2 Settlement Administration, LLC as Settlement Administrator. Once approved by the Court, the Settlement Administrator will be an agent of the Court and will be subject to the Court's supervision and direction as circumstances may require.

4.3 The Settlement Administrator will cause the Notice Program to be effectuated in accordance with the terms of this Settlement Agreement and any orders of the Court. The Settlement Administrator may request the assistance of the Parties to facilitate providing notice and to accomplish such other purposes as may be approved by Mercy Counsel and Settlement Class Counsel. The Parties shall reasonably cooperate with such requests.

4.4 The Settlement Administrator will administer and update the Settlement Website in accordance with the terms of this Settlement Agreement. Settlement Class Counsel and Mercy Counsel shall agree on all information and documents to be posted on the Settlement Website.

4.5 The Settlement Administrator will conduct Claim Administration in accordance with the terms of the Settlement Agreement, any additional processes agreed to by Settlement Class Counsel and Mercy Counsel, and subject to the Court's supervision and direction as circumstances may require.

4.6 To make a claim for monetary compensation, a Settlement Class Member must complete and submit a valid, timely, and sworn Claim Form. Claim Forms shall be submitted by U.S. mail or electronically through the Settlement Website and must be postmarked or submitted no later than the Claim Deadline.

4.7 The Settlement Administrator will review and evaluate each Claim Form, including any required documentation submitted, for timeliness, completeness, and validity.

4.8 The Settlement Administrator, in its sole discretion to be reasonably exercised, will determine whether: (1) the claimant is a Settlement Class Member; (2) the claimant has provided all documentation or information needed to complete the Claim Form, including any documentation required to support claims for compensation under Paragraph 3.1 above; and (3) when applicable, the information submitted could lead a reasonable person to conclude that the

claimant is eligible for the category and/or amount for which a claim is submitted (collectively, “Facially Valid”). The Settlement Administrator may, at any time, request from the claimant, in writing, additional information (“Claim Supplementation”) as the Settlement Administrator may reasonably require in order to evaluate the claim, *e.g.*, documentation requested on the Claim Form, information regarding the claimed losses, available insurance or other sources of reimbursement, the status of any claims made for insurance benefits or other reimbursement, and claims previously made for identity theft and the resolution thereof.

4.9 The Settlement Administrator will maintain records of all Claim Forms submitted until the later of (a) one hundred and eighty (180) Days after the Effective Date or (b) the date all Claim Forms have been fully processed. Claim Forms and supporting documentation may be provided to the Court upon request and to Settlement Class Counsel and/or Mercy Counsel to the extent requested or necessary to resolve Claims Administration issues pursuant to this Settlement Agreement. Mercy or the Settlement Administrator will provide other reports or information as requested by the Court.

4.10 Subject to the terms and conditions of this Settlement Agreement, Mercy or its insurer shall transmit needed claimant compensation funds to the Settlement Administrator, and the Settlement Administrator shall mail or otherwise provide checks for approved claims within thirty-five (35) days of the Effective Date, or within thirty-five (35) days of the date that the Claim is approved, whichever is later.

4.11 Checks for approved Claims shall be mailed to the address provided by the Settlement Class Member on his or her Claim Form.

4.12 Cashing a check for an approved Claim is a condition precedent to any Settlement Class Member’s right to receive benefits under this Settlement Agreement. All checks issued under

this section shall be void if not negotiated within ninety (90) calendar days of their date of issue and shall bear the language “This check must be cashed within 90 days, after which time it is void.” Checks issued pursuant to this section that are not negotiated within ninety (90) calendar days of their date of issue shall not be reissued. If a Settlement Class Member fails to cash a check issued under this section before it becomes void, the Settlement Class Member will have failed to meet a condition precedent to recovery of settlement benefits, the Settlement Class Member’s right to receive monetary relief under the Settlement shall be extinguished, and Mercy shall have no obligation to make payments to the Settlement Class Member for compensation or loss reimbursement under Paragraph 3.1 or to make any other type of monetary relief to the Settlement Class Member. Such Settlement Class Member remains bound by all terms of the Settlement Agreement.

4.13 The settlement funds and benefits that Mercy shall create or provide will not be subject to any non-claim statutes or any possible rights of forfeiture or escheat. All monies that might be paid are not vested, contingently due, or otherwise monies in which a Settlement Class Member has an enforceable right and shall remain the property of Mercy and its insurer until all conditions for payment have been met. No interest shall accrue or be payable in connection with any payment due under this Settlement Agreement.

4.14 Information submitted by Settlement Class Members in connection with submitted claims for benefits under this Settlement Agreement shall be deemed confidential and protected as such by the Settlement Administrator, Claims Referee, Settlement Class Counsel, and Mercy Counsel.

5. NOTICE TO SETTLEMENT CLASS MEMBERS.

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

5.2 Notice shall be provided to Settlement Class Members via (1) direct notice; and (2) notice on the Settlement Website.

5.3 Within seven (7) Days of the entry of the Preliminary Approval Order and engagement of a Settlement Administrator, Mercy shall provide the Settlement Administrator with the names and mailing addresses of the Settlement Class Members whose mailing addresses are known to Mercy. The Settlement Administrator shall, by using the National Change of Address (“NCOA”) database maintained by the United States Postal Service (“Postal Service”), obtain updates, if any, to the mailing addresses.

5.4 Within thirty (30) Days of the entry of the Preliminary Approval Order (the “Notice Deadline”), the Settlement Administrator shall send the Notice in **Exhibit A** to all Settlement Class Members whose addresses are known to Mercy by First Class U.S. Mail.

5.5 If any Notice is returned by the Postal Service as undeliverable, the Settlement Administrator shall re-mail the Notice to the forwarding address, if any, provided by the Postal Service on the face of the returned mail. Where the undeliverable Notice is returned without a forwarding address, the Settlement Administrator shall make reasonable efforts to ascertain the correct address of the Settlement Class Member whose Notice was returned undeliverable and re-mail the Notice. Other than as set forth in the preceding sentence, neither the Parties nor the Settlement Administrator shall have any obligation to re-mail a Notice to a Settlement Class Member.

5.6 The Notice mailed to Settlement Class Members will consist of a Short-Form Notice in a form substantially similar to that attached hereto as **Exhibit A**. The Settlement Administrator shall have discretion to format this Short-Form Notice in a reasonable manner to minimize mailing and administrative costs. Before Notices are mailed, Settlement Class Counsel

and Mercy Counsel shall first be provided with a proof copy (reflecting 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 any orders of the Court.

5.7 No later than thirty (30) Days following entry of the Preliminary Approval Order and engagement of a Settlement Administrator, and prior to the mailing of the Notice to Settlement Class Members, the Settlement Administrator will create a dedicated Settlement Website. The Settlement Administrator shall cause the Petition, Short-Form Notice, Long-Form Notice (substantially in the form of **Exhibit B** hereto), and Claim Form (**Exhibit C**), as approved by the Court, as well as this Settlement Agreement, to be made available on the Settlement Website. Any other content proposed to be included or displayed on the Settlement Website shall be approved in advance by Settlement Class Counsel and Mercy Counsel, which approval shall not be unreasonably withheld. The website address and the fact that the Long-Form Notice and a Claim Form are available through the website shall be included in the Notice mailed to Settlement Class Members.

5.8 The Settlement Website shall be maintained and updated until thirty (30) Days after the Claim Deadline has passed.

5.9 Claim Forms shall be returned or submitted to the Settlement Administrator via U.S. Mail or submitted through the Settlement Website by the Claim Deadline set by the Court or be forever barred.

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

6. OPT-OUT PROCEDURE.

6.1 Each Settlement Class Member shall have the right to opt-out and not participate in the Settlement Agreement, as provided for in the Preliminary Approval Order.

6.2 The Notice shall inform each Settlement Class Member of his or her right to request exclusion from the Settlement Class and not to be bound by this Settlement Agreement, if, within such time as is ordered by the Court (“Opt-Out Period”), the Settlement Class Member personally signs and timely submits, completes, and mails a request for exclusion (“Opt-Out Request”) to the Settlement Administrator at the address set forth in the Notice. To be effective, an Opt-Out Request must be postmarked no later than the final date of the Opt-Out Period.

6.3 The Parties will recommend to the Court that the Opt-Out Period be the ninety (90) Day period beginning upon the entry of the Preliminary Approval Order.

6.4 For a Settlement Class Member’s Opt-Out Request to be valid, it must (a) state his or her full name, address, and telephone number; (b) contain the Settlement Class Member’s personal and original signature (or the original signature of a person previously authorized by law, such as a trustee, guardian or person acting under a power of attorney to act on behalf of the Settlement Class Member with respect to a claim or right such as those in the Action); and (c) state unequivocally the Settlement Class Member’s intent to be excluded from the Settlement Class, to be excluded from the Settlement, not to participate in the Settlement, and/or to waive all rights to the benefits of the Settlement. The Settlement Administrator shall promptly inform Settlement Mercy Counsel and Mercy Counsel of any Opt-Out Requests.

6.5 All Settlement Class Members who submit timely and valid Opt-Out Requests in the manner set forth in Paragraph 6.4, above, referred to herein as “Opt-Outs,” shall receive no benefits or compensation under this Settlement Agreement, shall gain no rights from the Settlement Agreement, shall not be bound by the Settlement Agreement, and shall have no right

to object to the Settlement or proposed Settlement Agreement or to participate at the Final Approval Hearing. All Settlement Class Members who do not request to be excluded from the Settlement Class in the manner set forth in Paragraph 6.4, above, shall be bound by the terms of this Settlement Agreement, including the Release contained herein, and any judgment entered thereon, regardless of whether he or she files a Claim Form or receives any monetary benefits from the Settlement.

6.6 An Opt-Out Request or other request for exclusion that does not fully comply with the requirements set forth in Paragraph 6.4 above, or that is not timely submitted or postmarked, or that is sent to an address other than that set forth in the Notice, shall be invalid, and the person submitting such request shall be treated as a Settlement Class Member and be bound by this Settlement Agreement, including the Release contained herein, and any judgment entered thereon.

6.7 No person shall purport to exercise any exclusion rights of any other person, or purport (a) to opt-out Settlement Class Members as a group, in the aggregate, or as a class involving more than one Settlement Class Member; or (b) to opt-out more than one Settlement Class Member on a single paper, or as an agent or representative. Any such purported Opt-Out Requests shall be void, and the Settlement Class Member(s) who is or are the subject of such purported Opt-Out Requests shall be treated as a Settlement Class Member and be bound by this Settlement Agreement, including the Release contained herein, and judgment entered thereon, unless he or she submits a valid and timely Opt-Out Request.

6.8 Within seven (7) Days after the last Day of the Opt-Out Period, the Settlement Administrator shall furnish to Settlement Class Counsel and to Mercy Counsel a complete list of all timely and valid Opt-Out Requests (the "Opt-Out List").

7. OBJECTIONS TO THE SETTLEMENT.

7.1 Any Settlement Class Member who wishes to object to the Settlement Agreement must submit a timely written notice of his or her objection (“Objection”) by the Objection Date. Such notice shall (i) state the objecting Settlement Class Member’s full name, current address, telephone number, and email address (if any); (ii) contain the objecting Settlement Class Member’s original signature; (iii) set forth information identifying the objector as a Settlement Class Member, including proof that the objector is within the Settlement Class (e.g., copy of the Notice or copy of original notice of the Data Incident); (iv) set forth a statement of all grounds for the objection, including any legal support for the objection that the objector believes applicable; (v) identify all counsel representing the objector; (vi) state whether the objector and/or his or her counsel will appear at the Final Approval Hearing; (vii) contain the signature of the objector’s duly authorized attorney or other duly authorized representative, along with documentation setting forth such representation; (viii) include 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; and (ix) include copies of any documents that the objecting Settlement Class Member wishes to submit in support of his or her position.

7.2 To be timely, an Objection in the appropriate form must be filed with the Clerk of the Court no later than ninety (90) Days from the Preliminary Approval Date (the “Objection Date”) and mailed or hand delivered concurrently upon Settlement Class Counsel and Mercy Counsel at addresses set forth in the Notice. The deadline for filing Objections shall be included in the Notice.

7.3 An objector is not required to attend the Final Approval Hearing. If an objecting Settlement Class Member intends to appear at the Final Approval Hearing, either with or without counsel, he or she must also file with the Court, and mail or hand-deliver to Settlement Class

Counsel and Mercy Counsel, a notice of appearance no later than ninety (90) Days after the Preliminary Approval Date.

7.4 If the objecting Settlement Class Member intends to appear at the Final Approval Hearing through counsel, the notice of appearance filed with the Court must also identify the attorney(s) representing the objector who will appear at the Final Approval Hearing and include each such attorney's name, address, phone number, email address, state bar(s) to which counsel is admitted, as well as associated state bar numbers, and a list identifying all objections such counsel has filed to class action settlements in the past three (3) years, the results of each objection, any court opinions ruling on the objections, and any sanctions issued by a court in connection with objections filed by such attorney.

7.5 If the objecting Settlement Class Member intends to request permission from the Court to call witnesses at the Final Approval Hearing, the objecting Settlement Class Member must provide a list of any such witnesses together with a brief summary of each witness's expected testimony at least thirty (30) Days before the Final Approval Hearing.

7.6 Any Settlement Class Member who fails to comply in full with the requirements for objecting set forth in this Settlement Agreement, the Notice, and any applicable orders of the Court shall forever waive and forfeit any and all rights he or she may have to raise any objection to the Settlement Agreement, 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 the Settlement Agreement and by all proceedings, orders, and judgments in the Action. The exclusive means for any challenge to the Settlement Agreement shall be through the provisions set forth in this Section. Without limiting the foregoing, any challenge to the Settlement Agreement, the Final Order and

Judgment approving this Settlement Agreement, or the Judgment to be entered upon final approval shall be pursuant to appeal under the Iowa Rules of Civil Procedure and not through a collateral attack. Any objecting Settlement Class Member who appeals final approval of the Settlement Agreement will be required to post an appeal bond.

8. ATTORNEYS' FEES AND EXPENSES AND SERVICE AWARD.

8.1 Settlement Class Counsel will petition the Court on notice to Mercy for an Service Award not to exceed \$1,000.00 for the named Plaintiff, which award is intended to recognize Plaintiff for his efforts in the litigation and commitment on behalf of the Settlement Class (“Service Award”). If approved by the Court, Mercy or its insurer will pay the Service Award to an account established by Settlement Class Counsel no later than 21 Days after the Effective Date.

8.2 Settlement Class Counsel will petition the Court on notice to Mercy for an award of attorneys’ fees and expenses in an amount not to exceed \$220,000.00. If approved by the Court, Mercy or its insurer will pay the Court-approved amount for attorneys’ fees and expenses to an account established by Settlement Class Counsel no later than 21 Days after the Effective Date.

8.3 Settlement Class Counsel will file the applications with the Court for an Incentive Award and attorneys’ fees and expenses concurrently with the motion for entry of Final Order and Judgment, unless otherwise ordered by the Court. Mercy reserves its rights to oppose or respond to such applications.

8.4 The Parties agree that Mercy will not in any event or circumstance be required to pay any amounts to Plaintiff or Settlement Class Counsel for a Service Award or attorneys’ fees and expenses in excess of the amounts identified above in Paragraphs 8.1 and 8.2.

8.5 The Parties agree that the Court’s approval or denial of any request for an Incentive Awards and/or attorneys’ fees and expenses are not conditions to this Settlement Agreement. The Parties further agree that the amount(s) of a Service Award, and of any award of attorneys’ fees or

expenses, are intended to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement. No order of the Court, or modification, reversal, or appeal of any order of the Court, concerning the amount of a Service Award or any attorneys' fees or expenses, ordered by the Court to be paid to Settlement Class Counsel or Plaintiff shall affect whether the Final Order and Judgment is Final, cancel or terminate this Settlement Agreement, or constitute grounds for cancellation or termination of this Settlement Agreement.

9. NOTICES.

9.1 All notices (other than the Notice) required by the Settlement Agreement shall be made in writing and communicated by mail to the following addresses:

All Notices to Settlement Class Counsel or Plaintiff shall be sent to:

Brad Schroeder
Hartung Schroeder Law Firm
303 Locust Street, Suite 300
Des Moines, IA 50309

Gary M. Klinger
Mason Leitz & Klinger LLP
227 W. Monroe Street, Suite 2100
Chicago, IL 60606

Syed A. Saeed
Saeed & Little, LLP
18 E. Vermont Street
Indianapolis, IN 46204

All Notices to Mercy Counsel or Mercy shall be sent to:

Jessica Tucker Glick
Phelan Tucker Law LLP
321 East Market Street
P.O. Box 2150
Iowa City, IA 52244

John C. Cleary, Esq.
Polsinelli PC
600 Third Avenue, 42nd Floor
New York, NY 10016

Mark A. Olthoff, Esq.
Polsinelli PC
900 W. 48th Place, Suite 900
Kansas City, MO 64112

9.2 Upon the request of any of the Parties, the Parties agree to promptly provide each other with copies of comments, Objections, requests for exclusion, or other documents, communications, or filings received as a result of the Notice.

10. SETTLEMENT APPROVAL PROCESS.

10.1 As soon as practicable after execution of this Settlement Agreement, the Parties shall jointly submit this Settlement Agreement to the Court and file a motion for preliminary approval of the settlement, requesting entry of a Preliminary Approval Order in the form attached hereto as **Exhibit D**, or an order substantially similar to such form in both terms and cost, which:

- (a) Preliminarily approves this Settlement Agreement;
- (b) Certifies the Settlement Class for settlement purposes only pursuant to Section 2;
- (c) Finds that the proposed Settlement is sufficiently fair, reasonable, and adequate to warrant providing notice to Settlement Class Members;
- (d) Appoints the Settlement Administrator in accordance with the provisions of Paragraph 4.2;
- (e) Approves the Notice Program and directs the Settlement Administrator and Mercy to provide notice to Settlement Class Members in accordance with the Notice Program provided for in this Settlement Agreement;
- (f) Approves a customary form of short notice to be mailed to Settlement Class Members (the “Short-Form Notice”) in a form substantially similar to the one attached hereto as **Exhibit A** and a customary long form of notice (“Long-Form Notice”) in a form substantially similar to the one attached hereto as **Exhibit B**, which together shall include a fair summary of the Parties’ respective litigation positions, the general terms of the Settlement set forth in this Settlement Agreement, instructions for how to object to or opt-

out of the settlement, the process and instructions for making claims to the extent contemplated herein, and the date, time, and place of the Final Approval Hearing;

(g) Approves a Claim Form substantially similar to that attached hereto as **Exhibit C**, and directs the Settlement Administrator to conduct Claims Administration in accordance with the provisions of this Settlement Agreement;

(h) Approves the Opt-Out and Objection procedures as outlined in this Settlement Agreement;

(i) Schedules a Final Approval Hearing to consider the fairness, reasonableness, and adequacy of the proposed Settlement and whether it should be finally approved by the Court;

(j) Appoints Settlement Class Counsel;

(k) Appoints Plaintiff as the Settlement Class Representative;

(l) Appoints a Person proposed by the Parties to serve as Claims Referee; and

(m) Contains any additional provisions agreeable to the Parties that might be necessary or advisable to implement the terms of this Settlement Agreement.

11. FINAL APPROVAL HEARING.

11.1 Settlement Class Counsel and Mercy Counsel shall request that after Notice is completed, the Court hold a Final Approval Hearing and grant final approval of the Settlement set forth herein. The Parties will recommend that the Final Approval Hearing be scheduled no earlier than one hundred twenty (120) Days after the entry of the Preliminary Approval Order.

11.2 The Parties will file with the Court their briefs in support of final approval, attorneys' fees and expenses, and Incentive Award, no later than thirty (30) Days before the Final Approval Hearing, or as directed by the Court.

11.3 The Parties shall ask the Court to enter a Final Order and Judgment in substantially the same form as **Exhibit E**.

11.4 If and when the Final Order and Judgment becomes Final, the Lawsuit shall be dismissed with prejudice, with the Parties to bear their own attorneys' fees, costs, and expenses not otherwise provided in accordance with this Settlement Agreement.

12. TERMINATION OF THIS SETTLEMENT AGREEMENT.

12.1 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 is not substantially similar in form and substance to **Exhibit D** hereto);

(b) The Court denies final approval of this Settlement Agreement (or grants final approval through an order that materially differs in substance from **Exhibit E** hereto);
or

(c) The Final Order and Judgment do not become Final because a higher court reverses final approval by the Court.

12.2 Mercy shall have the right to terminate this Settlement Agreement if the total number of Opt-Outs exceeds 100 members of the Settlement Class. The date for purposes of calculating the occurrence of the condition permitting termination under this Paragraph shall be the date of delivery of the Opt-Out List.

12.3 If a Party elects to terminate this Settlement Agreement under this Section 12, 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.

12.4 Nothing shall prevent Plaintiff or Mercy 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. In the event such appellate proceedings result, by order of the appellate court or by an order after remand or a combination thereof, in the entry of an order(s) whereby the Settlement is approved in a manner substantially consistent with the substantive terms and intent of this Settlement Agreement, and dismissing all claims in the Lawsuit with prejudice, and otherwise meeting the substantive criteria of this Settlement Agreement for approval of the Settlement, such order shall be treated as a Final Order and Judgment.

12.5 If this Settlement Agreement is terminated or disapproved, or if the Effective Date should not occur for any reason, then: (i) this Settlement Agreement and all orders entered in connection therewith shall be rendered null and void; (ii) the terms and provisions of the Settlement Agreement shall have no further force and effect with respect to the Parties and shall not be used in the Lawsuit or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of the Settlement Agreement shall be treated as vacated, *nunc pro tunc*; (iii) Mercy shall be responsible for all notice and claims administration costs incurred prior to the termination or disapproval; (iv) all Parties shall be deemed to have reverted to their respective positions and status in the Lawsuit as of the date this Settlement Agreement was executed and shall jointly request that a new case schedule be entered by the Court.; and (v) Mercy or its insurer shall have no payment, reimbursement or other financial obligation of any kind as a result of this Settlement Agreement, other than as stated in Sub-Part (iii) above.

13. RELEASE.

13.1 On the Effective Date, the Parties and each and every Settlement Class Member shall be bound by this Settlement Agreement and shall have recourse only to the benefits, rights, and remedies provided hereunder. No other action, demand, suit, arbitration, or other claim may be pursued against Mercy or any Released Persons with respect to the Released Claims.

13.2 Upon the Effective Date, and to the fullest extent permitted by law, each Settlement Class Member, including Plaintiff, shall, either directly, indirectly, representatively, as a member of or on behalf of the general public or in any capacity, be permanently barred and enjoined from commencing, prosecuting, pursuing, or participating in any recovery in any action in this or any other forum (other than participation in the Settlement as provided herein) in which any of the Released Claims is asserted.

13.3 On the Effective Date and in consideration of the promises and covenants set forth in this Settlement Agreement, (i) Plaintiff and each Settlement Class Member, and each of their respective spouses and children with claims on behalf of the Settlement Class Member, executors, representatives, guardians, wards, heirs, estates, successors, predecessors, next friends, co-borrowers, co-obligors, co-debtors, legal representatives, attorneys, agents, and assigns, and all those who claim through them or who assert claims (or could assert claims) on their behalf (including the government in the capacity as *parens patriae* or on behalf of creditors or estates of the releasors), and each of them (collectively and individually, the “Releasing Persons”), and (ii) Settlement Class Counsel and each of their past and present law firms, partners, or other employers, employees, agents, representatives, successors, or assigns will be deemed to have, and by operation of the Final Order and Judgment shall have, fully, finally, completely, and forever released and discharged the Released Persons from the Released Claims. The release set forth in the preceding sentence (the “Release”) shall be included as part of any judgment, so that all Released Claims shall be barred by principles of res judicata, collateral estoppel, and claim and issue preclusion.

13.4 Without in any way limiting the scope of the Release, the Release covers, without limitation, any and all claims for attorneys’ fees, costs, and expenses incurred by Settlement Class Counsel or any other counsel representing Plaintiff or Settlement Class Members, or any of them,

in connection with or related in any manner to the Lawsuit, the Settlement, the administration of such Settlement and/or the Released Claims as well as any and all claims for the Service Award to Plaintiff.

13.5 Subject to Court approval, as of the Effective Date, all Settlement Class Members shall be bound by this Settlement Agreement and the Release and all of their claims shall be dismissed with prejudice and released, irrespective of whether they received actual notice of the Lawsuit or this Settlement.

13.6 As of the Effective Date, the Released Persons are deemed, by operation of the entry of the Final Order and Judgment, to have fully released and forever discharged Plaintiff, the Settlement Class Members, Settlement Class Counsel or any other counsel representing Plaintiff or Settlement Class Members, or any of them, of and from any claims arising out of the Lawsuit or the Settlement. Any other claims or defenses Mercy or other Released Persons may have against Plaintiff, the Settlement Class Members, Settlement Class Counsel or any other counsel representing Plaintiff or Settlement Class Members, including, without limitation, any claims based upon or arising out of any employment, debtor-creditor, contractual, or other business relationship that are not based upon or do not arise out of the institution, prosecution, assertion, settlement, or resolution of the Lawsuit or the Released Claims are not released, are specifically preserved and shall not be affected by the preceding sentence.

13.7 As of the Effective Date, the Released Persons are deemed, by operation of entry of the Final Order and Judgment, to have fully released and forever discharged each other of and from any claims they may have against each other arising from the claims asserted in the Lawsuit, including any claims arising out of the investigation, defense, or Settlement of the Lawsuit.

13.8 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.

14. EFFECTIVE DATE.

14.1 The “Effective Date” of this Settlement Agreement shall be ten (10) days after the date when each and 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 Notice has been sent via mail and the Settlement Website has been duly created and maintained as ordered by the Court;

(d) The Court has entered a Final Order and Judgment finally approving this Settlement Agreement, as provided above; and

(e) The Final Order and Judgment has become Final; and

(f) The time for any appeal of the Final Order and Judgment has expired.

15. MISCELLANEOUS PROVISIONS.

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

15.2 The Parties (i) acknowledge that it is their intent to consummate this agreement; and (ii) agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Settlement Agreement, and to exercise their best efforts to accomplish the terms and conditions of this Settlement Agreement.

15.3 This Settlement Agreement is for settlement purposes only. No provision contained in this Settlement Agreement or any action taken hereunder shall constitute or be construed as an admission of the merit or validity of any claim or any fact alleged in the Lawsuit or of any wrongdoing, fault, violation of law, or liability of any kind on the part of Mercy or the Released Persons or any admission by Mercy or the Released Persons with respect to any claim or allegation made in any action or proceeding or any concession as to the merit of any of the claims asserted by Plaintiff in the Lawsuit. This Settlement Agreement shall not be offered or be admissible in evidence against either Party or the Released Persons or cited or referred to in any action or proceeding, 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 Mercy or the Released Persons that Plaintiff's claims or any similar claims are suitable for class treatment outside of this Settlement.

15.4 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 such agreement, as shall be ordered by the Court. The Parties shall execute all documents and use their best efforts to perform all acts necessary and proper to promptly effectuate the terms of this Settlement Agreement and to take all necessary or appropriate actions to obtain judicial approval of this Settlement Agreement in order to give this Settlement Agreement full force and effect.

15.5 No Person shall have any claim against Plaintiff, Settlement Class Counsel, Mercy, Mercy Counsel, the Settlement Administrator, the Claims Referee, the Released Persons, or their agents based on administration of the Settlement substantially in accordance with the terms of the Settlement Agreement or any court order.

15.6 This Settlement Agreement constitutes the entire agreement between the Parties with respect to the settlement of the Lawsuit. This Settlement Agreement supersedes all prior negotiations and agreements with respect to the settlement of the Lawsuit and may not be modified or amended except by a writing signed by or on behalf of the Parties or their respective successors-in-interest. 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.

15.7 There shall be no waiver of any term or condition 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.

15.8 In the event a third party, such as a bankruptcy trustee, former spouse, or other third party has or claims to have a claim against any payment made or to be made to a Settlement Class Member, it is the sole responsibility of the Settlement Class Member to transmit the funds to such third party in satisfaction of such claims.

15.9 The Parties intend this Settlement to be a final and complete resolution of all disputes between them with respect to the Lawsuit. The Settlement compromises and releases claims that are contested and shall not be deemed an admission by any Party as to the merits of any claim or defense. The Parties each agree that the Settlement was negotiated in good faith by the Parties and was reached voluntarily after consultation with competent legal counsel. The Parties reserve their right to rebut, in a manner that such Party determines to be appropriate, any contention made in any public forum that the Lawsuit was brought or defended in bad faith or

without a reasonable basis. It is agreed that neither Party shall have any liability to one another as it relates to the Lawsuit, except as set forth herein.

15.10 This Settlement Agreement shall not be construed more strictly against one Party than another merely because of the fact that 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 the 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.

15.11 The Court shall retain jurisdiction, after entry of the Final Order and Judgment, with respect to implementation and enforcement of the terms of this Settlement Agreement, and all Parties and Settlement Class Members submit to the exclusive jurisdiction of the Court for purposes of the implementation and enforcement of the Settlement embodied in this Settlement Agreement and any dispute with respect thereto.

15.12 This Settlement Agreement shall be construed under and governed by the laws of the state of Iowa without regard to its choice of law provisions.

15.13 In the event that any 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, which shall remain in full force and effect as though the invalid, illegal, or unenforceable provision had never been a part of this Settlement Agreement as long as the benefits to Mercy or the Settlement Class Members are not materially altered as the result of the invalid, illegal, or unenforceable provision.

15.14 This Settlement Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties.

15.15 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).

15.16 All dollar amounts are in United States dollars (USD).

15.17 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.

15.18 Each Party to this Settlement Agreement and the signatories thereto warrant that he, she, or it is acting upon his, her, or its independent judgment and the advice of his, her, or its 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.

15.19 Each signatory below warrants that he or she has authority to execute this Settlement Agreement and bind the Party on whose behalf he or she is executing the Settlement Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused the Settlement Agreement to be executed, by their duly authorized attorneys.

Dated: _____, 2021

/s/

Jessica Tucker Glick
AT000009276
PHELAN TUCKER LAW LLP
321 East Market Street
Iowa City, IA 52244
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600 Third Avenue, 42nd Floor
New York, NY 10016
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Email: john.cleary@polsinelli.com

Attorneys for Mercy

Dated: _____, 2021

/s/

Brad Schroeder
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Des Moines, IA 50309
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Attorneys for Plaintiff and the Class

EXHIBIT A

Michael Clark, individually and on behalf of all others similarly situated, v. Mercy Hospital, Iowa City, Iowa d/b/a Mercy Iowa City, Case No. CVCV082275.

If you were mailed a notice by Mercy Hospital regarding data breach that occurred on or about May or June 2020, you may be eligible for compensation and credit monitoring.

A court authorized this notice. It is not a solicitation from a lawyer.

A settlement has been reached in a class action lawsuit against Mercy Hospital Iowa City, Iowa (“Mercy”) relating to the potential compromise of private information of current and/or former patients and guarantors of Mercy in or about May and June 2020 (the “Data Incident”). Mercy denies all of the claims and says it did not do anything wrong. This class settlement has been preliminarily approved by the court.

WHO IS INCLUDED? Mercy records show you received a notification from Mercy of the Data Incident, and, therefore, you are included in this Settlement as a “Settlement Class Member.”

SETTLEMENT BENEFITS. All Settlement Class Members will be provided access to Experian’s Identity Monitoring services for a period of one year from the Effective Date of the Settlement without the need to submit a Claim Form. A link with a redeemable code to be used after the court grants final approval of the settlement is provided below.

Link: [Link]

Redemption Code: [Redemption Code]

The Settlement also provides two types of payments to people who submit valid claims: 1) reimbursement of up to \$250.00 for documented out-of-pocket losses and/or up to six hours of certified lost time at \$20 per hour that resulted from the Data Incident; and 2) reimbursement of up to \$2,500.00 for documented extraordinary losses which were more likely than not caused by the Data Incident.

THE ONLY WAY TO RECEIVE MONETARY COMPENSATION IS TO FILE A CLAIM. To file online or to get a Claim Form, visit the website at www._____.com. The claim deadline is _____, 2022. Your unique ID on this Notice will be required to file a claim.

OTHER OPTIONS. If you do nothing, you will remain in the class, you will not be eligible for benefits, and you will be bound by the decisions of the Court and give up your rights to sue Mercy for the claims resolved by this Settlement. If you do not want to be legally bound by the Settlement, you must exclude yourself by _____, 2022. If you stay in the Settlement, you may object to it by _____, 2022. A more detailed notice is available to explain how to exclude yourself or object. Please visit the website at www._____.com for a copy of the more detailed notice. On _____, 2022, the Court will hold a Final Approval Hearing to determine whether to approve the Settlement, Settlement Class Counsel’s request for payment of attorneys’ fees and expenses and a named representative incentive award for the Representative Plaintiff.

www._____.com

EXHIBIT B

IN THE IOWA DISTRICT COURT IN AND FOR JOHNSON COUNTY, IOWA

If you were mailed a notice by Mercy Hospital regarding data breach that occurred on or about May or June 2020, you may be eligible for compensation and credit monitoring.

A state circuit court authorized this Notice. This is not junk mail, an advertisement, or a solicitation from a lawyer.

A settlement has been proposed in a class action lawsuit against Mercy Hospital, Iowa City, Iowa (“Mercy”) for the potential compromise of private information of current and/or former patients and guarantors of Mercy in or about May and June 2020 (the “Data Incident”). The information involved in the Data Incident potentially included name, date of birth, Social Security number, medical record or patient account number, health insurance information and/or limited treatment or clinical information such as diagnosis, provider name and date(s) of service relating to Mercy patients and guarantors.

If you received notice of the class action, you may be included in this Settlement as a “Settlement Class Member.”

- The Settlement provides payments to people who submit valid claims for lost time, out-of-pocket expenses, charges that were incurred and plausibly arose from the Data Incident, and for other extraordinary unreimbursed monetary losses. The Settlement also provides for one-year of identity monitoring services. Your legal rights are affected regardless of whether you do or do not act. Read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A CLAIM FORM	This is the only way you can get payment.
EXCLUDE YOURSELF FROM THE SETTLEMENT	You will not get any payment from the Settlement, but you also will not release your claims against Mercy. This is the only option that allows you to be part of any other lawsuit against Mercy or related parties for the legal claims resolved by this Settlement.
OBJECT TO THE SETTLEMENT	Write to the Court with reasons why you do not agree with the Settlement.
GO TO THE FINAL FAIRNESS HEARING	You may ask the Court for permission for you or your attorney to speak about your objection at the Final Fairness Hearing.
DO NOTHING	You will not get any payment from this Settlement and you will give up certain legal rights. Submitting a claim form is the only way to obtain payment under this Settlement.

- These rights and options—and the deadlines to exercise them—are explained in this Notice. For complete details, view the Settlement Agreement, available at www._____.com. The Court in charge of this case still has to decide whether to grant final approval of the Settlement.

Payments will only be made after the Court grants final approval of the Settlement and after any appeals are resolved.

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BASIC INFORMATION

1. Why is this Notice being provided?

The Court directed that this Notice be provided because you have a right to know about a proposed settlement that has been reached in this class action lawsuit and about all of your options before the Court decides whether to grant final approval of the Settlement. If the Court approves the Settlement, and after objections or appeals, if any, are resolved, the Settlement Administrator appointed by the Court will distribute the payments that the Settlement allows. This Notice explains the lawsuit, the Settlement, your legal rights, what payments are available, who is eligible for them, and how to get them.

The Court in charge of this case is the Iowa District Court in and for Johnson County, Iowa. The case is known as styled *Michael Clark, individually and on behalf of all others similarly situated, v. Mercy Hospital, Iowa City, Iowa d/b/a Mercy Iowa City*, Case No. CVCV082275 (the “Lawsuit”). The person who filed the Lawsuit is called the Plaintiff, and the company they sued, Mercy, is called the Defendant.

2. What is this lawsuit about?

The Lawsuit claims that Mercy was responsible for the Data Incident and asserts claims such as: negligence, breach of implied contract, breach of confidence, breach of contract, violation of the Iowa Consumer Fraud Act, and violation of the Iowa Personal Information Security Breach Protection Act. The Lawsuit seeks, among other things, payment for persons who were injured by the Data Incident.

Mercy has denied and continues to deny all of the claims made in the Lawsuit, as well as all charges of wrongdoing or liability against it.

3. What is a class action?

In a class action, one or more people called Class Representatives (in this case, Michael Clark.) sue on behalf of people who have similar claims. Together, all these people are called a Class or Class Members. One Court and one judge – in this case, Judge Mary E. Chicchelly – resolves the issues for all Class Members, except for those who exclude themselves from the Settlement Class.

4. Why is there a Settlement?

The Court did not decide in favor of the Plaintiff or Mercy. Instead, the Plaintiff negotiated a settlement with Mercy that allows both Plaintiff and Mercy to avoid the risks and costs of lengthy and uncertain litigation and the uncertainty of a trial and appeals. It also allows Settlement Class Members to obtain payment without further delay. The Class Representative and his attorneys think the Settlement is best for all Settlement Class Members. This Settlement does not mean that Mercy did anything wrong.

WHO IS INCLUDED IN THE SETTLEMENT?

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

You are part of this Settlement as a Settlement Class Member if you previously received a notification from Mercy of the Data Incident.

6. Are there exceptions to being included in the Settlement?

Yes. Specifically excluded from the Settlement Class are: (i) Mercy and its officers and directors; (ii) all Settlement Class Members who timely and validly request exclusion from the Settlement Class; (iii) the Judge(s) assigned to evaluate the fairness of this settlement; and (iv) other persons excluded by the terms of the Settlement Agreement.

THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY

7. What does the Settlement provide?

The Settlement will provide monetary payments to people who submit valid claims.

There are two types of payments that are available: (1) Ordinary Loss Compensation (Question 8, below) and (2) Extraordinary Loss Compensation (Question 9, below). In order to claim each type of payment, you must provide the information and documentation called for by the Claim Form.

Mercy will also provide each Settlement Class Member with a code for one (1) year of Experian identity theft monitoring service to be used after the court grants final approval to the settlement.

8. What payments are available for Ordinary Loss Compensation?

Class Members are eligible to receive compensation of up to \$250.00 (in total) for the following categories of out-of-pocket expenses and lost time resulting from the Data Incident:

- unreimbursed losses relating to fraud or identity theft; professional fees including attorneys' fees, accountants' fees, and fees for credit repair services; costs associated with freezing or unfreezing credit with any credit reporting agency; credit monitoring costs that were incurred on or after May 15, 2020, through the date of preliminary approval; and miscellaneous expenses such as notary, fax, postage, copying, mileage, and long-distance telephone charges
- Reimbursement of up to six hours of lost time (at \$20 per hour) shown by the claimant, duly certified by the claimant, to have been spent dealing with issues related to the Data Incident to prevent, detect, contest, remediate and/or repair related damages, *e.g.*, time spent dealing with obtaining credit reports, credit monitoring or other identity theft protection products, contacting credit reporting agencies, contacting public or private health insurers, contacting financial institutions, reviewing and monitoring financial accounts and credit reports for fraudulent or suspicious activity, or reversing fraudulent charges. The 6 hours are comprised of 3 hours of attested time and up to 3 additional hours with supporting documentation.

More details are provided in the Settlement Agreement, which is available at www._____.com.

9. What payments are available for Extraordinary Loss Compensation?

Class Members who had extraordinary unreimbursed monetary losses because of information potentially compromised as part of the Data Incident are eligible to make a claim for compensation of up to \$2,500. As part of the claim, the Class Member must show that: (1) the loss is an actual, documented, and unreimbursed monetary loss; (2) the loss was more likely than not caused by the Data Incident; (3) the loss occurred during the time period from May 15, 2020 through and including the end of the applicable claims period; (4) the loss is not already covered by one or more of the categories in Question 8; and (5) a reasonable effort was made to avoid or seek reimbursement for the loss, including but not limited to exhaustion of all available credit monitoring insurance and identity theft insurance.

More details are provided in the Settlement Agreement, which is available at www._____.com.

HOW TO GET BENEFITS—SUBMITTING A CLAIM FORM

10. How do I get monetary benefits from the Settlement?

Monetary Benefits: To ask for a payment, you must complete and Submit a Claim Form. Claim Forms are available at www._____.com. Read the instructions carefully, fill out the Claim Form electronically, or mail it postmarked no later than _____, 2022 to:

Mercy Claims Administrator
PO Box XXXXX
City, State zip code

Identity Monitoring: After the Court has granted final approval of the Settlement. Settlement Class Members will have the opportunity to use the enrollment code included in the postcard notice that they can use to enroll in the Experian identify theft monitoring services.

11. How will claims be decided?

The Claims Administrator will initially decide whether the information provided on a Claim Form is complete and valid. The Claims Administrator may require additional information from any claimant. If the required information is not provided timely, the claim will be considered invalid and will not be paid.

If the claim is complete and the Claims Administrator denies the claim entirely or partially, the claimant will be provided an opportunity to have his or her claim reviewed by an impartial Claims Referee who has been appointed by the Court.

12. When will I get my payment?

The Court will hold a Final Fairness Hearing at __:__ o'clock __.m. on _____, 2022 to decide whether to approve the Settlement. If the Court approves the Settlement, there may be appeals. It is always uncertain whether any appeals can be resolved favorably, and resolving them can take time, perhaps more than a year. It also takes time for all the Claim Forms to be processed, depending on the number of claims submitted and whether any appeals are filed. Please be patient.

REMAINING IN THE SETTLEMENT

13. Do I need to do anything to remain in the Settlement?

You do not have to do anything to remain in the Settlement, but if you want a payment you must submit a Claim Form postmarked by _____, 2022.

14. What am I giving up as part of the Settlement?

If the Settlement becomes final, you will give up your right to sue Mercy for the claims being resolved by this Settlement. The specific claims you are giving up against Mercy are described in Section II.1.25 of the Settlement Agreement. You will be “releasing” Mercy and all related people or entities as described in Sections II.1.26 and XIII.13.3 of the Settlement Agreement. The Settlement Agreement is available at www._____.com.

The Settlement Agreement describes the released claims with specific descriptions, so read it carefully. If you have any questions you can talk to the Settlement Class Counsel listed in Question 18 for free or you can, of course, talk to your own lawyer at your own expense if you have questions about what this means.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want a payment from this Settlement, but you want to keep the right to sue Mercy about issues in the Lawsuit, then you must take steps to get out of the Settlement Class. This is called excluding yourself from – or is sometimes referred to as “opting out” of – the Settlement Class.

15. If I exclude myself, can I still get payment from the Settlement?

No. If you exclude yourself from the Settlement, you will not be entitled to any benefits of the Settlement, but you will not be bound by any judgment in this case.

16. If I do not exclude myself, can I sue Mercy for the same thing later?

No. Unless you exclude yourself from the Settlement, you give up any right to sue Mercy for the claims that this Settlement resolves. You must exclude yourself from the Settlement Class to start your own lawsuit or to be part of any different lawsuit relating to the claims in this case. If you exclude yourself, do not submit a Claim Form to ask for a payment.

17. 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 the Settlement in *Michael Clark, individually and on behalf of all others similarly situated, v. Mercy Hospital, Iowa City, Iowa d/b/a Mercy Iowa City*, Case No. CVCV082275. Your letter must also include your full name, address, telephone number, and personal and original signature. You must mail your exclusion request postmarked no later than _____, 2022 to:

Mercy Settlement Exclusions
P.O. Box _____
[City] [ST] _____ - _____

THE LAWYERS REPRESENTING YOU

18. Do I have a lawyer in this case?

Yes. The Court appointed Brad Schroder, Hartung Schroder Law Firm, 303 Locust Street, Des Moines, IA 50309, Gary M. Klinger, Mason Leitz & Klinger, LLP, 227 W. Monroe Street, Suite 2100, Chicago, IL 60606, Syed Ali Saeed, Saeed & Little, LLP, 18 E. Vermont Street, Indianapolis, IN 46204, to represent you and other Settlement Class Members. These lawyers are

called Settlement Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

19. How will Settlement Class Counsel be paid?

If the Settlement is approved and becomes final, Settlement Class Counsel will ask the Court to award attorneys' fees and expenses in the total amount of \$220,000.00 Settlement Class Counsel will also request approval of an incentive award of \$1,000.00 for the Class Representative. If approved, these amounts, as well as the costs of notice and settlement administration, will be paid separately by Mercy.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you do not agree with the Settlement or some part of it.

20. 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 if you do not like it or a portion of it. You can give reasons why you think the Court should not approve the Settlement. The Court will consider your views before making a decision. To object, you must file with the Court and mail copies to Settlement Class Counsel and Mercy's Counsel a written notice stating that you object to the Settlement in *Michael Clark, individually and on behalf of all others similarly situated, v. Mercy Hospital, Iowa City, Iowa d/b/a Mercy Iowa City*, Case No. CVCV082275.

Your objection must include:

- 1) Your full name, address, telephone number, and e-mail address;
- 2) Information or proof showing you are a Settlement Class Member;
- 3) The reasons why you object to the Settlement, including any documents supporting your objection;
- 4) The name and address of your attorney, if you have retained one;
- 5) The name and address of any attorneys representing you that may appear at the Final Fairness Hearing;
- 6) A list of all persons who will be called to testify at the Final Fairness Hearing in support of your objection;
- 7) A statement confirming whether you intend to personally appear and/or testify at the Final Fairness Hearing;
- 8) A list, by case name, court, and docket number, of all other cases in which you (directly or through a lawyer) have filed an objection to any proposed class action settlement within the last three years;
- 9) A list, by case name, court, and docket number, of all other cases in which your lawyer (on behalf of any person or entity) has filed an objection to any proposed class action settlement within the last three years;
- 10) A list, by case number, court, and docket number, of all other cases in which you have been a named plaintiff in any class action or served as a lead plaintiff or class representative; and
- 11) Your signature or the signature of your attorney or other duly authorized representative (along with documentation illustrating representation).

Your objection must be filed with the Clerk of the District Co, 417 S. Clinton Street, Iowa City, IA 52240 no later than _____, 2022. You must also mail copies of your objection to Settlement Class Counsel and Mercy’s Counsel postmarked no later than _____, 2022, at all of the addresses below.

SETTLEMENT CLASS COUNSEL	MERCY’S COUNSEL
<p>Brad Schroeder HARTUNG SCHROEDER LAW FIRM 303 Locust Street, Suite 300 Des Moines, Iowa 50309 515-282-7800 (t) 515-282-8700 (f) schroeder@hartungschroeder.com</p> <p>Gary M. Klinger MASON LIETZ & KLINGER LLP 227 W. Monroe Street, Suite 2100 Chicago, IL 60606 Tel.: (202) 429-2290 Fax: (202) 429-2294 gklinger@masonllp.com</p> <p>Syed Ali Saeed SAEED & LITTLE, LLP 18 E. Vermont Street Indianapolis, IN 46204 Tel.: (317) 721-9214 Fax: (888) 422-3151 ali@sllawfirm.com</p>	<p>Jessica Tucker Glick AT000009276 PHELAN TUCKER LAW LLP 321 East Market Street Iowa City, Iowa 52244 Phone: (319) 354-1104 Fax: (319) 354-6962 Glick@phelantuckerlaw.com</p> <p>POLSINELLI PC</p> <p>Mark A. Olthoff (pro hac vice) Catherine A. Green (pro hac vice) 900 W. 48th Place, Suite 900 Kansas City, Missouri 64112-1895 Phone: (816) 753-1000 Fax: (816) 753-1536 molthoff@polsinelli.com cgreen@polsinelli.com</p> <p>John C. Cleary (pro hac vice) 600 Third Avenue, 42nd Floor New York, New York 10016 Phone: (212) 413-2837 Fax: (212) 684-0197 john.cleary@polsinelli.com</p>

21. What is the difference between objecting to and excluding myself from the Settlement?

Objecting is telling the Court that you do not like something about the Settlement. Excluding yourself is telling the Court that you do not want to be part of the Class in this Settlement. If you exclude yourself from the Settlement, you have no basis to object or submit a Claim Form because the Settlement no longer affects you.

THE COURT’S FINAL FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the Settlement. You may attend and you may ask to speak, but you do not have to. You cannot speak at the hearing if you exclude yourself from the Settlement.

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

The Court will hold a Final Fairness Hearing at __:__ o'clock [a.m./p.m.] on _____, 2022, in the Iowa District Court in and for Johnson County, IA **417 S. Clinton Street, Iowa City, IA 52240**. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court will take into consideration any properly-filed written objections and may also listen to people who have asked to speak at the hearing (*see* Question 20). The Court will also decide whether to approve fees and expenses requested by Settlement Class Counsel, and the incentive award requested for the Class Representative.

23. Do I have to come to the Final Fairness Hearing?

No. Settlement Class Counsel will answer any questions the Court may have. However, you are welcome to attend at your own expense. If you file an objection, you do not have to come to Court to talk about it. You may also hire your own lawyer to attend, at your own expense, but you are not required to do so.

24. May I speak at the Final Fairness Hearing?

Yes, you may ask the Court for permission to speak at the Final Fairness Hearing. To do so, you must follow the instructions provided in Question 20 above. You cannot speak at the hearing if you exclude yourself from the Settlement.

IF YOU DO NOTHING

25. What happens if I do nothing?

If you do nothing, you will not receive any benefits from this Settlement. If the Court approves the Settlement, you will be bound by the Settlement Agreement and the Release. This means you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Mercy or related parties about the issues involved in the Lawsuit, resolved by this Settlement, and released by the Settlement Agreement.

GETTING MORE INFORMATION

26. Are more details about the Settlement available?

Yes. This Notice summarizes the proposed Settlement. More details are in the Settlement Agreement, which is available at *www. _____ .com*.

27. How do I get more information?

Go to *www. _____ .com*.

***Please do not call the Court or the Clerk of the Court for additional information.
They cannot answer any questions regarding the Settlement or the Lawsuit.***

EXHIBIT C

Michael Clark, individually and on behalf of all others similarly situated, v. Mercy Hospital, Iowa City, Iowa
d/b/a Mercy Iowa City, Case No. CVCV082275.
Iowa District Court in and for Johnson County, Iowa

CLAIM FORM

DEADLINE TO SUBMIT:

ATTENTION: This Claim Form is to be used to apply for monetary benefits from the settlement of a lawsuit with Mercy Hospital, Iowa City, Iowa (“Mercy”). The lawsuit alleges that Mercy received a phishing e-mail in May and June 2020, which resulted in the potential compromise of patients’ and guarantors’ private information (“Data Incident”). To recover as part of this settlement, you *must* provide the information requested in this Claim Form for each applicable claim. PLEASE BE ADVISED that any documentation you provide must be submitted with this Claim Form.

You may submit claims in each applicable category below:

- (A) Compensation for ordinary losses attributable to the Data Incident, which include (1) unreimbursed losses relating to fraud or identity theft; professional fees including attorneys’ fees, accountants’ fees, and fees for credit repair services; costs associated with freezing or unfreezing credit with any credit reporting agency; credit monitoring costs that were incurred on or after May 15, 2020, through the date of preliminary approval; and miscellaneous expenses such as notary, fax, postage, copying, mileage, and long-distance telephone charges and up (2) up to six (6) hours of lost time (at \$20 per hour) comprised of 3 hours attested and up to an additional 3 hours with documentation provided that you certify the lost time was spent in response to the Data Incident
- (B) Compensation for extraordinary losses attributable to the Data Incident, including out-of-pocket costs associated with identity theft, tax fraud, other forms of fraud, and other actual misuse of personal information as a result of the Data Incident.

For further information on each, please see the Notice.

If you wish to submit a claim for a settlement payment electronically, you may go online to the Settlement Website, www._____.com, and follow the instructions on the “Submit a Claim” page.

If you wish to submit a claim for a settlement payment via standard mail, you need to provide the information requested below and mail this Claim Form to **Settlement Administrator, address**, postmarked by _____, 2022. Please print clearly in blue or black ink.

1. **General Information**

Required Information:

First Name: _____ MI: _____ Last Name: _____

Current Address:

City: _____ State: _____ ZIP: _____

Country: _____ Phone: _____ Date of birth: _____

Optional Information:

Email: _____

2. **Claim Information**

Claim A: Ordinary Losses

To obtain reimbursement under this category, you must attest to one or more, if applicable, of the following:

I incurred unreimbursed losses relating to fraud or identity theft; professional fees including attorneys' fees, accountants' fees, and fees for credit repair services; costs associated with freezing or unfreezing credit with any credit reporting agency; credit monitoring costs that were incurred on or after May 15, 2020, through the date of preliminary approval; and miscellaneous expenses such as notary, fax, postage, copying, mileage, and long-distance telephone charges.

Total Amount of Ordinary Losses \$ _____

If you attested to the above, please provide a description of each expense or loss claimed, the date of loss, the dollar amount of the loss, and the type of supporting documentation you will be submitting to support the loss.

AND/OR

I lost time spent dealing with effects and consequences of the Data Incident to prevent, detect, contest, remediate and/or repair related damages as a result of the Data Incident; **AND** I affirm that the lost time was spent dealing with issues relating to the Data Incident; **AND** I affirm that I have not been reimbursed by any source for this lost time. Lost time is compensable in the amount of \$20 per hour.

You must provide ALL of this information for this claim to be processed.

Claim A: Ordinary Losses – Out-of-Pocket Expense Reimbursement

(Settlement Class Members are eligible for compensation for up to a total of \$250.00 per person for Ordinary Losses, including expenses and lost time)

Description of the Expense	Date	Amount	Supporting Documentation
Examples: Ordered credit reports	1/5/21	\$30.00	Copy of invoice/billing statement
Mailed police reports to private provider	1/5/21	\$5.00	Copy of receipt from U.S. Post Office
TOTAL (maximum \$250.00, can be claimed, including lost time)			

List any additional expenses on a separate sheet and submit with this Claim Form.

Failure to affirm or provide appropriate documentation will result in a delay in processing and may result in the denial of your claim.

Claim A: Ordinary Losses – Lost Time Reimbursement

Settlement Class Members are eligible for compensation for up to a total of \$250.00 per person for Ordinary Losses, including expenses and Lost Time. Lost Time may include up to 6 hours of lost time at \$20.00 per hour, for time spent dealing with the Data Incident, provided at least one full hour was spent dealing with the Data Incident.

If you elect to obtain reimbursement for personal time spent addressing issues arising out of the Data Incident, complete the following:

I spent personal time addressing issues arising out of the Data Incident to try to prevent, detect, contest, remediate and/or repair related damages as a result of the Data Incident.

Number of hours

1 hour 2 hours 3 hours 4 hours 5 hours 6 hours

If more than 3 hours, I am submitting the following documentation to support my additional time up to 3 more hours: _____

Claim B: Extraordinary Losses

To obtain reimbursement under this category, you must attest to the following:

I experienced an incident of identity theft, tax fraud, other form of fraud, and/or other actual misuse of my personal information as a result of the Data Incident; **AND** I affirm that I have documentation of the incident and my associated expenses and have submitted such documentation with this Claim Form; **AND** I affirm that none of the claimed expenses have already been reimbursed by any other source.

Please provide documentation supporting **both** your claim and your associated expenses.

An example of documentation supporting your claim would include a letter from your health insurance company, financial institution, credit reporting agency, or another source informing you that a false medical insurance claim had been filed or fraudulent financial loss had to be reversed.

An example of documentation supporting your associated expenses would include receipts, voided checks, bank statements, or other documents showing the amount of your losses and/or a detailed narrative description of what happened and what losses you incurred.

Failure to affirm or provide appropriate documentation will result in a delay in processing and may result in the denial of your claim.

Claim B: Extraordinary Losses – Out-of-Pocket Expense Reimbursement

(Settlement Class Members are eligible for compensation for up to a total of \$2,500.00 per person for Extraordinary Losses)

Description of the Expense	Date	Amount	Supporting Documentation
Examples: Unreimbursed fraudulent medical bills	1/5/21	\$200.00	Copy of invoice/billing statement
Unreimbursed charged from account fraudulently opened with my identity.	1/5/21	\$100.00	Copy of invoice/billing statement and report of identity theft to account company
TOTAL (maximum \$2,500.00)			
List any additional expenses on a separate sheet and submit with this Claim Form.			
Failure to affirm or provide appropriate documentation will result in a delay in processing and may result in the denial of your claim.			

In order to be eligible for compensation under Claim B, you must certify below that you have made reasonable efforts to avoid or seek reimbursement for the loss.

3. Certification

I understand that my Claim and the information provided above will be subject to verification.

By submitting this Claim Form, I declare under penalty of perjury under the laws of the United States of America that the information provided in this Claim Form is true and correct and that this form was executed on the date set forth below. I further certify that any documentation that I have submitted in support of my Claim consists of unaltered documents in my possession.

Please include your name in both the Claimant Signature and Printed Name fields below.

Claimant Signature: _____ Date: ____ / ____ / ____

Printed Name: _____

THIS CLAIM FORM MUST BE SUBMITTED OR POSTMARKED BY Month DD, 2022 IN ORDER TO BE TIMELY AND VALID.

EXHIBIT D

IN THE IOWA DISTRICT COURT IN AND FOR JOHNSON COUNTY

MICHAEL CLARK, individually and on)	
behalf of all others similarly situated,)	
)	Case No. CVCV082275
Plaintiff,)	
)	
v.)	
)	
MERCY HOSPITAL, IOWA CITY, IOWA)	
d/b/a Mercy Iowa City,)	
)	
Defendant.)	

[PROPOSED] ORDER GRANTING MOTION FOR PRELIMINARY APPROVAL OF CLASS SETTLEMENT AGREEMENT

This matter came before the Court on Plaintiff’s Motion for Preliminary Approval of Class Settlement Agreement. Plaintiff, individually and on behalf of the proposed Settlement Class, and Defendant have entered into a Settlement Agreement (the “Settlement Agreement”) that settles the above-captioned litigation.

Plaintiff Michael Clark (“Plaintiff” or “Settlement Class Representative”) brought this class action case against Mercy Hospital, Iowa City, Iowa (“Mercy” or “Defendant,” and together with Plaintiff, “the Parties”), on January 20, 2021. In the Class Action Petition (“Petition”), Plaintiff asserts claims for : (1) negligence; (2) breach of implied contract; (3) unjust enrichment; (4) breach of confidence; (5) violation of the Iowa Consumer Fraud Act (“ICFA”); and (6) violation of the Iowa Personal Information Security Breach Protection Act (“PIBSA”).

According to the Petition, a targeted cyberattack and data breach, which resulted in the potential compromise of patients’ and guarantors’ personally identifiable information and/or protected health information. The information potentially compromised consisted of information such as name, date of birth, Social Security number, medical record or patient account number, health insurance information and/or limited treatment or clinical information such as diagnosis,

provider name and date(s) of service relating to Mercy patients and guarantors.

The Parties, through their counsel, have entered into a Settlement Agreement following good faith, arm's-length negotiations and a mediation overseen by Jeffrey Boehlert. The Parties have agreed to settle this action, pursuant to the terms of the Settlement Agreement, and subject to the approval and determination of the Court as to the fairness, reasonableness, and adequacy of the Settlement which, if approved, will result in dismissal of this action with prejudice.

Having reviewed the Settlement Agreement, including the exhibits attached thereto, and all prior proceedings herein, and for good cause shown, it is hereby ordered that Plaintiff's Motion for Preliminary Approval is granted as set forth herein.¹

1. **Class Certification for Settlement Purposes Only.** For settlement purposes only and pursuant to Iowa Rules of Civil Procedure 1.261-1.279, the Court provisionally certifies a class in this matter defined as follows:

All persons whose Private Information was maintained on Defendant Mercy Hospital Iowa City's computer systems and/or network that was compromised in the cyberattack and who were sent notice of the Data Breach.

The Court provisionally finds, for settlement purposes only, that: (a) the Settlement Class is so numerous that joinder of all Settlement Class Members would be impracticable; (b) there are issues of law and fact common to the Settlement Class; (c) the claims of the Settlement Class Representative are typical of and arise from the same operative facts and seek similar relief as the claims of the Settlement Class Members; (d) the Settlement Class Representative and Settlement Class Counsel will fairly and adequately protect the interests of the Settlement Class as the Settlement Class Representative has no interest antagonistic to or in conflict with the Settlement

¹ Unless otherwise indicated, capitalized terms used herein have the same meaning as in the Settlement Agreement.

Class and has retained experienced and competent counsel to prosecute this matter on behalf of the Settlement Class; (e) questions of law or fact common to Settlement Class Members predominate over any questions affecting only individual members; and (f) a class action and class settlement is superior to other methods available for a fair and efficient resolution of this controversy.

2. **Settlement Class Representatives and Settlement Class Counsel.**

Michael Clark is hereby provisionally designated and appointed as the Settlement Class Representative. The Court provisionally finds that the Settlement Class Representative is similarly situated to absent Class Members and therefore typical of the Class and that she will be an adequate Settlement Class Representative.

The Court finds that the following counsel are experienced and adequate counsel and are hereby provisionally designated as Settlement Class Counsel pursuant to Iowa Rules of Civil Procedure 1.261-1.279: Brad Schroeder, Hartung Schroeder Law Firm, Gary M. Klinger, Mason Leitz & Klinger, LLP, David K. Lietz, Mason Lietz & Klinger, LLP, Syed Ali Saeed, Saeed & Little LLP.

3. **Preliminary Settlement Approval.** Upon preliminary review, the Court concludes and finds that the proposed Settlement is fair, reasonable, and adequate to warrant providing Notice of the Settlement to the Settlement Class and accordingly is preliminarily approved.

4. **Jurisdiction.** The Court concludes that it has subject matter jurisdiction and personal jurisdiction over the Parties before it for the purposes of the Settlement. Additionally, venue is proper in this District.

5. **Final Approval Hearing.** A Final Approval Hearing shall be held on [REDACTED], 2022 at [REDACTED] o'clock [a.m./p.m.] in The District Court of Johnson County, Iowa, 417 S. Clinton

Street, Iowa City, Iowa 52240, to determine, among other things, whether: (a) this matter should be finally certified as a class action for settlement purposes pursuant to Iowa Rules of Civil Procedure 1.261-1.279; (b) the Settlement should be finally approved as fair, reasonable, and adequate pursuant to Iowa Rules of Civil Procedure 1.261-1.279; (c) the action should be dismissed with prejudice pursuant to the terms of the Settlement Agreement; (d) Settlement Class Members should be bound by the releases set forth in the Settlement Agreement; (e) the motion of Settlement Class Counsel for an award of attorneys' fees and expenses (the "Fee Request") should be approved pursuant to Iowa Rules of Civil Procedure 1.261-1.279; and (f) the motion of the Settlement Class Representative for an Incentive Award (the "Incentive Award Request") should be approved.

Plaintiff's Motion for Final Approval of the Settlement, Incentive Award Request, and Fee Request shall be filed with the Court at least **30 Days prior to the Final Approval Hearing**.

6. **Administration.** The Court appoints RG2 Settlement Administrators, LLC as the Settlement Administrator, with responsibility for class notice and claims administration and to fulfill the duties of the Settlement Administrator set forth in the Settlement Agreement. Defendant shall pay all costs and expenses associated with providing notice to Settlement Class Members including, but not limited to, the Settlement Administrator's fees, as well as the costs associated with administration of the Settlement.

7. **Notice to the Class.** The proposed Notice Program set forth in the Settlement Agreement, and the Short-Form Notice, Long-Form Notice, and Claim Form attached to the Settlement Agreement as Exhibits A, B, and C satisfy the requirements of Iowa Rules of Civil Procedure 1.271 provide the best notice practicable under the circumstances, and are hereby approved. Non-material modifications to these Exhibits may be made without further order of the

Court. The Settlement Administrator and Mercy are directed to carry out the Notice Program in conformance with the Settlement Agreement.

Within **30 days from the date of this Order** (the “Notice Deadline”), the Settlement Administrator and Mercy shall initiate the Notice Program, which shall be completed in the manner set forth in Section 5 of the Settlement Agreement.

8. **Findings and Conclusions Concerning Notice.** The Court finds that the form, content, and method of giving notice to the Settlement Class as described in Paragraph 8 of this Order and the Settlement Agreement (including the exhibits thereto): (a) will constitute the best practicable notice to the Settlement Class; (b) are reasonably calculated to apprise Settlement Class Members of the pendency of the action, the terms of the proposed Settlement, and their rights under the proposed Settlement, including but not limited to their rights to object to or exclude themselves from the proposed Settlement and other rights under the terms of the Settlement Agreement; (c) are reasonable and constitute due, adequate, and sufficient notice to all Class Members and other persons entitled to receive notice; and the Court concludes that the Notice Program meets all applicable requirements of law, including Iowa Rule of Civil Procedure 1.271, and the Due Process Clause(s) of the Iowa and United States Constitutions. The Court further finds that the Notice is written in plain language, uses simple terminology, and is designed to be readily understandable by Class Members.

9. **Exclusion from Class.** Any Settlement Class Member who wishes to be excluded from the Settlement Class must mail a written notification of the intent to exclude himself or herself from the Settlement Class to the Settlement Administrator at the address provided in the Notice, postmarked no later than **90 Days from the date of this Order** (the “Opt-Out Period”). The written notification must include the individual’s full name, address, and telephone number; an

unequivocal statement that he or she wants to be excluded from the Settlement Class; and the original signature of the individual or a person previously authorized by law, to act on behalf of the individual with respect to the claims asserted in this Action.

The Settlement Administrator shall provide the Parties with copies of all completed opt-out notifications, and a final list of all who have timely and validly excluded themselves from the Settlement Class, which Settlement Class Counsel may move to file under seal with the Court no later than **10 Days prior to the Final Approval Hearing**.

Any Settlement Class Member who does not timely and validly exclude herself or himself from the Settlement shall be bound by the terms of the Settlement Agreement. If a Final Order and Judgment is entered, any Settlement Class Member who has not submitted a timely, valid written notice of exclusion from the Settlement Class shall be bound by all proceedings, orders, and judgments in this matter, including but not limited to the Release set forth in the Final Order and Judgment, including Settlement Class Members who have previously initiated or who subsequently initiate any litigation against any or all of the Released Persons relating to the claims and transactions released in the Settlement Agreement. All Settlement Class Members who submit valid and timely notices of exclusion from the Settlement Class shall not be entitled to receive any benefits of the Settlement.

10. **Objections and Appearances**. A Settlement Class Member who complies with the requirements of this Paragraph may object to the Settlement, the Incentive Award Request, or the Fee Request.

No Settlement Class Member shall be heard, and no papers, briefs, pleadings, or other documents submitted by any Settlement Class Member shall be received and considered by the Court, unless the objection is (a) electronically filed with the Court by the Objection Date as set

forth in the Settlement Agreement; or (b) mailed first-class postage prepaid to the Clerk of Court, Settlement Class Counsel, and Defendant's Counsel at the addresses listed in the Notice, and postmarked by no later than the Objection Date set forth in the Settlement Agreement, and as specified in the Notice. For an objection to be considered by the Court, the objection must also include all of the information set forth in Paragraph 7.1 of the Settlement Agreement, which is as follows:

- a. The objector's full name, current address, telephone number, and email address (if any);
- b. The Settlement Class Member's original signature;
- c. Information identifying the objector as a Settlement Class Member, including proof that the objector is within the Settlement Class (e.g., copy of Notice or copy of original notice of the Data Incident);
- d. A statement of all grounds for the objection, including any legal support for the objection that the objector believes applicable;
- e. Identification of all counsel representing the objector;
- f. Whether the objector and/or his or her counsel will appear at the Final Approval Hearing;
- g. The signature of the objector's duly authorized attorney or other duly authorized representative, along with documentation setting forth such representation;
- h. 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; and
- i. Copies of any documents that the objecting Settlement Class Member wishes to submit in support of his or her position.

Any Settlement Class Member who fails to comply with the provisions in this Paragraph may waive and forfeit any and all rights he or she may have to object, and shall be bound by all the terms of the Settlement Agreement, this Order, and by all proceedings, orders, and judgments in this matter, including, but not limited to, the release in the Settlement Agreement if the Final

Order and Judgment is entered.

Any Settlement Class Member, including a Settlement Class Member who files and serves a written objection, as described above, may appear at the Final Approval Hearing, either in person or through counsel hired at the Settlement Class Member's expense, to object to or comment on the fairness, reasonableness, or adequacy of the Settlement, the Incentive Award Request, or the Fee Request. If an objecting Settlement Class Member intends to appear at the Final Approval Hearing, either with or without counsel, he or she must also file a notice of appearance with the Court (as well as serve on Settlement Class Counsel and Defendant's Counsel) by the Objection Date. If the objecting Settlement Class Member intends to appear at the Final Approval Hearing through counsel, he or she must also identify the attorney(s) representing the objecting Settlement Class Member who will appear at the Final Approval Hearing and include the attorney(s) name, address, phone number, email address, state bar(s) to which counsel is admitted, as well as associated state bar numbers, and a list identifying all objections such counsel has filed to class action settlements in the past three (3) years, the results of each objection, any court opinions ruling on the objections, and any sanctions issued by a court in connection with objections filed by such attorney. If the objecting Settlement Class Member intends to request the Court for permission to call witnesses at the Final Approval Hearing, the objecting Settlement Class Member must provide a list of any such witnesses together with a brief summary of each witness's expected testimony at least thirty (30) Days before the Final Approval Hearing.

If the Final Order and Judgment is entered, any Settlement Class Member who fails to object in the manner prescribed herein shall be deemed to have waived his or her objections and shall be forever barred from making any such objections in this action or in any other proceeding or from challenging or opposing, or seeking to reverse, vacate, or modify any approval of the

Settlement Agreement, the Incentive Award Request, or the Fee Request.

11. **Claims Process and Distribution and Allocation Plan.** Settlement Class Representative and Defendant have created a process for assessing and determining the validity and value of claims and a payment methodology to Settlement Class Members who submit a timely, valid Claim Form. The Court preliminarily approves the plan for remuneration described in Section 3 of the Settlement Agreement and directs that the Settlement Administrator effectuate the distribution of Settlement consideration according to the terms of the Settlement Agreement, should the Settlement be finally approved.

Settlement Class Members who qualify for and wish to submit a Claim Form shall do so in accordance with the requirements and procedures specified in the Notice and the Claim Form. If the Final Order and Judgment is entered, all Settlement Class Members who qualify for any benefit under the Settlement but fail to submit a claim in accordance with the requirements and procedures specified in the Notice and the Claim Form shall be forever barred from receiving any such benefit, but will in all other respects be subject to and bound by the provisions in the Settlement Agreement, the Release included in that Settlement Agreement, and the Final Order and Judgment.

12. **Termination of Settlement.** This Order shall become null and void and shall be without prejudice to the rights of the Parties, all of whom shall be restored to their respective positions existing as of the date of the execution of the Settlement Agreement if the Settlement is not finally approved by the Court or is terminated in accordance with the Settlement Agreement. In such event, the Settlement and Settlement Agreement shall become null and void and be of no further force and effect, and neither the Settlement Agreement nor the Court's orders, including this Order, relating to the Settlement shall be used or referred to for any purpose whatsoever.

13. **Use of Order.** This Order shall be of no force or effect if a Final Order and Judgment is not entered or there is no Effective Date and shall not be construed or used as an admission, concession, or declaration by or against Defendant of any fault, wrongdoing, breach, liability, or the certifiability of any class. Nor shall this Order be construed or used as an admission, concession, or declaration by or against the Settlement Class Representative or any other Settlement Class Member that his or her claim lacks merit or that the relief requested is inappropriate, improper, unavailable, or as a waiver by any Party of any defense or claim he, she, or it may have in this litigation or in any other lawsuit.

14. **Stay of Proceedings.** Except as necessary to effectuate this Order, all proceedings and deadlines in this matter are stayed and suspended pending the Final Approval Hearing and issuance of the Final Order and Judgment, or until further order of this Court.

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

16. **Summary of Deadlines.** The preliminarily approved Settlement shall be administered according to its terms pending the Final Approval Hearing. Deadlines arising under the Settlement Agreement and this Order include but are not limited to:

Notice Deadline: 30 Days after Preliminary Approval

Motion for Final Approval: 30 Days before Final Approval Hearing

Motion for Incentive Award, Attorneys' Fees and Costs: 14 Days before Hearing the deadline for Settlement Class Members to Object to or Opt Out of the Settlement

Opt-Out Deadline: 90 Days after Preliminary Approval

Objection Deadline: 90 Days after Preliminary Approval

Claim Deadline: 90 Days after Preliminary Approval

Final Approval Hearing: 120 Days after Preliminary Approval

IT IS SO ORDERED this ____ day of _____, 2022.

Hon. Mary E. Chiccelly
District Judge

EXHIBIT E

IN THE IOWA DISTRICT COURT IN AND FOR JOHNSON COUNTY

MICHAEL CLARK, individually and on)	
behalf of all others similarly situated,)	
)	Case No. CVCV082275
Plaintiff,)	
)	
v.)	
)	
MERCY HOSPITAL, IOWA CITY, IOWA)	
d/b/a Mercy Iowa City,)	
)	
Defendant.)	

**[PROPOSED] FINAL ORDER AND JUDGMENT GRANTING
FINAL APPROVAL OF THE CLASS ACTION SETTLEMENT**

Before the Court is Plaintiff’s unopposed motion requesting that the Court enter an Order granting final approval of the class action Settlement involving Plaintiff Michael Clark (“Plaintiff” or “Settlement Class Representative”) and Defendant Mercy Hospital Iowa City, Iowa (“Defendant” or “Mercy”), as fair, reasonable, and adequate.

Having reviewed and considered the Settlement Agreement and the motion for final approval of the settlement, and having conducted a Final Approval Hearing, the Court makes the findings and grants the relief set forth below approving the Settlement upon the terms and conditions set forth in this Final Order and Judgment.

THE COURT not being required to conduct a trial on the merits of the case or determine with certainty the factual and legal issues in dispute when determining whether to approve a proposed class action settlement; and

THE COURT being required under Iowa Rules of Civil Procedure 1.261-1.279 to make the findings and conclusions hereinafter set forth for the limited purpose of determining whether the Settlement should be approved as being fair, reasonable, adequate and in the best interests of the Settlement Class;

IT IS ON THIS ____ day of _____, 2022,
ORDERED that:

1. The Settlement involves allegations in Plaintiff's Class Action Petition that Defendant failed to safeguard and protect the personally identifiable information and/or protected health information of its patients and guarantors and that this alleged failure caused injuries to Plaintiff and the Class.

2. The Settlement does not constitute an admission of liability by Defendant, and the Court expressly does not make any finding of liability or wrongdoing by Defendant.

3. Unless otherwise noted, words spelled in this Order with initial capital letters have the same meaning as set forth in the Settlement Agreement.

4. On _____, 2022 the Court entered an Order which among other things: (a) approved the Notice to the Settlement Class, including approval of the form and manner of notice under the Notice Program set forth in the Settlement Agreement; (b) provisionally certified a class in this matter, including defining the class, appointed Plaintiff as the Settlement Class Representative, and appointed Settlement Class Counsel; (c) preliminarily approved the Settlement; (d) set deadlines for opt-outs and objections; (e) approved and appointed the Settlement Administrator; and (f) set the date for the Final Approval Hearing.

5. In the Order Granting the Motion for Preliminary Approval of Class Settlement Agreement, pursuant to Iowa Rules of Civil Procedure 1.261-1.279, for settlement purposes only, the Court certified the Settlement Class, defined as follows:

All persons whose Private Information was maintained on Defendant Mercy Hospital Iowa City's computer systems and/or network that was compromised in the cyberattack and who were sent notice of the Data Breach.

Excluded from the Settlement Class are (i) all Persons who timely and validly request exclusion from the Settlement Class in accordance with the opt-out procedures set forth in the Settlement Agreement; and (ii) any Person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity associated with the Laptop Incident or who pleads *nolo contendere* to any such charge.

6. The Court, having reviewed the terms of the Settlement Agreement submitted by the parties pursuant to Iowa Rules of Civil Procedure 1.261-1.279, grants final approval of the Settlement Agreement and defines the Settlement Class as defined therein and in the Preliminary Approval Order, and finds that the settlement is fair, reasonable, and adequate and meets the requirements of Iowa Rules of Civil Procedure 1.261-1.279.

7. The Settlement Agreement provides, in part, and subject to a more detailed description of the settlement terms in the Settlement Agreement, for:

- a. A process for Settlement Class Members to submit claims for compensation that will be evaluated by a Claims Administrator mutually agreed upon by Settlement Class Counsel and Defendant.
- b. Defendant to pay all Notice and Claims Administration costs.
- c. Defendant to pay a Court-approved amount for attorneys' fees and expenses of Settlement Class Counsel not to exceed \$220,000.00.
- d. Defendant to pay an Incentive Award not to exceed \$1,000.00 to the named Plaintiff.

8. The terms of the Settlement Agreement are fair, reasonable, and adequate and are hereby approved, adopted, and incorporated by the Court. The Parties, their respective attorneys, and the Settlement Administrator are hereby directed to consummate the Settlement in accordance with this Order and the terms of the Settlement Agreement.

9. Notice of the Final Approval Hearing, the proposed motion for attorneys' fees and expenses and the proposed Incentive Award payment to Plaintiff have been provided to Settlement

Class Members as directed by this Court's Orders, and an affidavit or declaration of the Settlement Administrator's compliance with the Notice Program has been filed with the Court.

10. 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 Iowa Rule of Civil Procedure 1.271.

11. As of the final date of the Opt-Out Period, ____ potential Settlement Class Members have submitted a valid Opt-Out Request to be excluded from the Settlement. The names of those persons are set forth in Exhibit A to this Order. Those persons are not bound by this Final Order and Judgment, as set forth in the Settlement Agreement.

12. The Court has considered all the documents filed in support of the Settlement, and has fully considered all matters raised, all exhibits and affidavits filed, all evidence received at the Final Approval Hearing, all other papers and documents comprising the record herein, and all oral arguments presented to the Court.

13. Pursuant to the Settlement Agreement, Defendant and the Settlement Administrator shall implement the Settlement in the manner and time frame as set forth therein.

14. Pursuant to the Settlement Agreement, Plaintiff and the Settlement Class Members release claims against Defendant and all Released Persons, as defined in the Settlement Agreement, as follows:

any and all past, present, and future claims, causes of action, counterclaims, lawsuits, rights, demands, charges, complaints, actions, obligations, or liabilities under any legal or equitable theory, whether known, unknown, suspected, or unsuspected or capable of being known or suspected, and whether, accrued, unaccrued, matured, or not matured, including but not limited to, negligence; negligence *per se*; negligent training and supervision; breach of fiduciary duty; invasion of privacy; breach of contract; breach of implied contract; violations of the Iowa Consumer Fraud Act, Iowa Personal Information Security Breach Protection Act, or any other state or federal consumer protection statute; breach of

confidence; misrepresentation (whether fraudulent, negligent or innocent); unjust enrichment; bailment; wantonness; failure to provide adequate notice pursuant to any breach notification statute or common law duty; and any causes of action under 18 U.S.C. §§ 2701 *et seq.*, and all similar statutes in effect in any states in the United States as defined herein; and including, but not limited to, any and all claims for damages, injunctive relief, disgorgement, declaratory relief, equitable relief, attorneys' fees, costs and expenses, set-offs, losses, pre-judgment interest, credit monitoring services, the creation of a fund for future damages, statutory damages, punitive damages, special damages, exemplary damages, restitution, the appointment of a receiver, and any other form of relief that either has been asserted, or could have been asserted, by any Settlement Class Member against any of the Released Persons based on, relating to, concerning, or arising out of the Data Incident and alleged exposure and compromise of any Settlement Class Member's personally identifiable information and/or protected health information or any other allegations, facts, or circumstances described in the Lawsuit or the Petition.

Released Claims shall 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 Settlement Agreement and shall not include the claims of those persons identified in Exhibit A to this Order, who have timely and validly requested exclusion from the Settlement Class.

15. On the Effective Date and in consideration of the promises and covenants set forth in this Settlement Agreement, (i) Plaintiff and each Settlement Class Member, and each of their respective spouses and children with claims on behalf of the Settlement Class Member, executors, representatives, guardians, wards, heirs, estates, successors, predecessors, next friends, co-borrowers, co-obligors, co-debtors, legal representatives, attorneys, agents, and assigns, and all those who claim through them or who assert claims (or could assert claims) on their behalf (including the government in the capacity as *parens patriae* or on behalf of creditors or estates of the releasors), and each of them (collectively and individually, the "Releasing Persons"), and (ii) Settlement Class Counsel and each of their past and present law firms, partners, or other employers, employees, agents, representatives, successors, or assigns will be deemed to have, and by operation of the Final Order and Judgment shall have, fully, finally, completely, and forever released and discharged the Released Persons from the Released Claims.

16. The matter is hereby dismissed with prejudice and without costs except that the Court reserves jurisdiction over the consummation and enforcement of the Settlement.

17. In accordance with Iowa Rules of Civil Procedure 1.261-1.279, this Final Order and Judgment resolves all claims against all parties in this Action and is a final order. There is no just reason to delay the entry of final judgment in this matter, and the Clerk is directed to file this Order as the final judgment in this matter.

Done and ordered this _____ day of _____, 2022.

Hon. Mary E. Chicchelly
District Judge