

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
JACKSON COUNTY, ILLINOIS**SHARON MCFARLAND, on behalf of
herself and all others similarly situated,****Plaintiff,**

v.

SIU PHYSICIANS & SURGEONS, INC.,**Defendant.**

Case No. 2021L64

Hon. Michael A. Fiello

**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 Sharon McFarland ("Plaintiff" or "Settlement Class Representative") and Defendant SIU Physicians & Surgeons, Inc. ("Defendant" or "SIUPS"), 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 735 ILCS 5/2-806 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 11th day of September, 2023,
ORDERED that:

1. The Settlement involves allegations in Plaintiff's Class Action Complaint that Defendant failed to safeguard and protect the personally identifiable information and/or protected health information of its patients 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 May 1, 2023 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, appointing Plaintiff as the Settlement Class Representative, and appointing 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 735 ILCS 5/2-802, for settlement purposes only, the Court certified the Settlement Class, defined as follows:

All individuals who were notified beginning in March 2021 by SIU Physicians and Surgeons, Inc. of a data incident related to the Accellion FTA service.

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; (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 Data Incident or who pleads *nolo contendere* to any such charge; and (iii) SIUPS's officers and directors.

6. The Court, having reviewed the terms of the Settlement Agreement submitted by the parties 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 35 ILCS 5/2-801.

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 litigation costs not to exceed \$243,500.00.
- d. Defendant to pay a Service Award to Class Representative not to exceed \$7,500.00

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 Service 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 735 ILCS 5/2-803.

11. As of the final date of the Opt-Out Period, 34 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; breach of confidence; invasion of privacy; breach of contract; unjust enrichment; breach of implied contract; breach of implied covenant of good faith and fair dealing; intrusion upon seclusion; public disclosure of private facts; the Illinois Consumer Fraud and Deceptive Business Practices 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 any 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 Complaint. 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.

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 Court approves payment of attorneys' fees, inclusive of costs and expenses, to Class Counsel in the amount of \$243,500.00. The Court, having considered the materials submitted by Class Counsel in support of final approval of the Settlement and their request for attorneys' fees, costs and expenses, finds the award of attorneys' fees, costs and expenses appropriate and reasonable for the following reasons: First, the Court finds that the Settlement provides substantial benefits to the Settlement Class. Second, the Court finds the payment fair and reasonable in light of the substantial work performed, and the result obtained, by Class Counsel. Third, the Court concludes that the Settlement was negotiated at arm's-length without collusion, and that the negotiation of the attorneys' fees only followed agreement on the settlement benefits for the Settlement Class Members. Finally, the Court notes that the Notice Plan specifically and clearly advised the Settlement Class that Class Counsel would seek an award in the amount sought.

17. The Court approves a Service Award in the amount of \$7,500.00 for the Class Representative, Sharon McFarland, and specifically finds such an amount to be reasonable in light of the services performed by Plaintiff for the Settlement Class, including personally taking on the risks and burden of litigation and helping achieve the results to be made available to the Settlement Class.

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

19. In accordance with 735 ILCS 5/2-805 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 11th day of September, 2023.

A handwritten signature in black ink, appearing to read "Michael A. Fiello", written over a horizontal line.

Hon. Michael A. Fiello
Presiding Justice

EXHIBIT A

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List Of Opted-Out Class Members From Class Action Settlement

1. Ethyn Huskins
2. George Ahlers
3. Margaret Ahlers
4. Susan Saputo
5. Coretta Davis
6. Mark Thompson
7. Barbara Eggemeyer
8. Ricky Webb
9. Jayden Pahl
10. Cathy Layne
11. Terence Pahl
12. Diana Pahl
13. Kirstie Tucker
14. Wyvetta Menke
15. Juliet Eggemeyer
16. Michael Krcil
17. Janice Rathgeb
18. Kenneth Petty
19. Joyce Petty
20. Tracy Christmon
21. David Workman
22. Karen Yocum
23. Fabrice Lippe
24. John Marruffo
25. Gary McKinnon
26. Doris Perkins
27. Kristina Hemstreet
28. Joan Looft
29. Sally Wood
30. Terry Cundall

31. Tristan Brazinski
32. Kevin Schrader
33. Maggie Ornberg
34. Frank Carter