

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
JACKSON COUNTY, ILLINOIS

SHARON J. MCFARLAND, individually and on)
behalf of all similarly situated individuals,)
)
Plaintiff,)
) Case No. 2021L64
v.)
) Hon. Michael Fiello
SIU PHYSICIANS & SURGEONS, INC.)
)
)
Defendant.)

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into by and between Sharon J. McFarland (“Plaintiff”), individually and on behalf of the Settlement Class (as defined below), by and through Settlement Class Counsel (as defined below), and Defendant SIU Physicians & Surgeons, Inc. (“SIUPS” or “Defendant”) in order to effect a full and final settlement and dismissal with prejudice of all claims against SIUPS 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 January 2021, SIUPS discovered that an unknown, unauthorized third party accessed its Accellion electronic file transfer service for short periods of time on December 24, 2020, January 20, 2021, and January 21, 2021. SIUPS immediately launched an investigation and subsequently provided notice of this data incident to all individuals whose information may have been involved.

On September 15, 2021, Plaintiff filed a putative class action against SIUPS in the Circuit Court of the First Judicial Circuit, Jackson County, Illinois (the “Lawsuit”), alleging claims arising from the aforementioned data incident. The case was assigned to the Honorable Michael Fiello and captioned *McFarland v. SIU Physicians & Surgeons, Inc.*, Case No. 2021L64. On January 21, 2022, Plaintiff filed her operative First Amended Complaint, asserting claims against Defendant under six counts for: (1) negligence; (2) breach of implied contract; (3) breach of the implied covenant of good faith and fair dealing;

(4) violations of the Illinois Consumer Fraud and Deceptive Business Practices Act (“ICFA”), 815 ILCS 505/1, *et seq.*; (5) unjust enrichment; and (6) invasion of privacy – public disclosure of private facts.

On February 28, 2022, SIUPS moved to dismiss Plaintiff’s claims, arguing that Plaintiff lacked standing and had failed to allege essential elements of her claims. On March 31, 2022, Plaintiff filed her opposition to the motion to dismiss, and on July 12, 2022, following full briefing and oral argument, the Court entered an Order granting in part and denying in part Defendant’s motion. The Court sustained Counts III (breach of the implied covenant of good faith and fair dealing); IV (violation of the ICFA); and V (unjust enrichment) of Plaintiff’s Complaint, finding that Plaintiff had standing and had adequately pled those claims. Counts I, II, and VI were dismissed. Accordingly, the following claims remain in the operative First Amended Complaint: (1) breach of the implied covenant of good faith and fair dealing; (2) violation of the ICFA; and (3) unjust enrichment.

On August 10, 2022, SIUPS filed its Answer and Affirmative Defenses. On September 13, 2022, the Court entered an Agreed Scheduling Order setting forth initial fact and expert discovery deadlines, and on September 30, 2022, Plaintiff propounded her First Set of Requests for Production and First Set of Interrogatories.

Thereafter, the Parties agreed to attempt to resolve the Lawsuit through mediation. On November 15, 2022, the Parties participated in a full-day, arm’s-length mediation overseen by the Honorable Diane Joan Larsen (Ret.) of JAMS. With the assistance of Judge Larsen, the Parties ultimately reached a settlement in principle by which the Parties agree to resolve all matters pertaining to, arising from, or associated with the Lawsuit, including all claims Plaintiff and Settlement Class Members have or may have against Defendant and related persons, entities, as set forth herein. As such, the Parties now seek to enter into this Settlement Agreement and settle the Lawsuit on the principal terms and conditions set forth herein, subject to final mutual agreement on all necessary documentation.

2. Claims of Plaintiff and Benefits of Settling

Plaintiff and Settlement Class Counsel have conducted a thorough investigation into the facts and the law regarding the Lawsuit and have diligently pursued the Settlement Class Members’ claims against

SIUPS, including preparing and filing the Complaint, briefing Defendant's motion to dismiss, propounding written discovery on Defendant, and assessing the merits of arguments for class certification. 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. Based on the foregoing, Plaintiff and Settlement Class Counsel have concluded that a settlement according to the terms set forth below is fair, reasonable, adequate, and beneficial to and in the best interest of Plaintiff and the Settlement Class recognizing, among other things: (1) the existence of complex and contested issues of law and fact; (2) the risks inherent in litigation; (3) the likelihood that future proceedings will be unduly protracted and expensive if the proceeding is not settled by voluntary agreement; (4) the magnitude of the benefits derived from the contemplated settlement in light of both the maximum potential and likely range of recovery to be obtained through further litigation and the expense thereof, as well as the potential of no recovery whatsoever; and (5) Plaintiff's and Class Counsel's determination that the settlement is fair, reasonable, adequate, and will substantially benefit the Settlement Class Members.

3. **Denial of Wrongdoing and Liability by SIUPS**

SIUPS denies each and all of the claims and contentions alleged against it in the Lawsuit. SIUPS denies all allegations of wrongdoing or liability as alleged, or which could be alleged, in the Lawsuit. SIUPS denies it was negligent, breached any implied contract or implied covenant of good faith and fair dealing, violated any state or federal statute, was unjustly enriched, or that it invaded anyone's privacy. Nonetheless, SIUPS 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. SIUPS has taken into account the uncertainty and risks inherent in any litigation and has 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 SIUPS 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 “*Agreement*” or “*Settlement Agreement*” means this Settlement Agreement and its accompanying Exhibits.

1.2 “*Approved Claims*” means valid and complete claims for compensation that are timely submitted by Settlement Class Members and approved for payment by the Settlement Administrator in accordance with this Agreement.

1.3 “*Claim*” means a request submitted by a Settlement Class Member via a Claim Form to receive an individual payment out of the Settlement Fund in accordance with the procedures and terms set forth in this Settlement Agreement.

1.4 “*Claims Deadline*” means the date by which all Claim Forms must be postmarked (if mailed) or submitted (if submitted electronically via the Settlement Website) to be considered timely. The Parties intend to request that the Court set the Claims Deadline on a date at least ninety (90) days after the Notice Date, subject to Court approval.

1.5 “*Claim Form*” means the form, substantially in the form of Exhibit C hereto, that each Settlement Class Member may submit to the Settlement Administrator, either by mail or online via the Settlement Website, to be eligible for compensation under this Settlement.

1.6 “*Claims Administration*” means the processing of Claims Forms received from Settlement Class Members and the processing of payment of Approved Claims by the Settlement Administrator.

1.7 “*Court*” means the Honorable Michael Fiello of the Circuit Court of the First Judicial Circuit, Jackson County, Illinois, or any other judge who shall have jurisdiction over the pending Lawsuit.

1.8 “*Data Incident*” means the data incident of Defendant’s Accellion file transfer service that is the subject of this Lawsuit, whereby on or about December 2020 through January 2021, SIUPS learned of the unauthorized attempt to access of current and/or former patients’ private information.

1.9 “*Days*” means calendar days; provided, however, 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.

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

1.11 “*Fee and Expense Application*” means the motion filed by Settlement Class Counsel in which they will seek approval of an award of attorneys’ fees, costs, and expenses, as well as a Service Award for the Class Representative.

1.12 “*Fee Award*” means the amount of attorneys’ fees, costs, and expenses awarded by the Court to Settlement Class Counsel.

1.13 “*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) if an appeal or other review proceeding of the judgment has 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 Service 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.

1.14 “*Final Approval Hearing*” means the hearing before the Court where Plaintiff will request a judgment to be entered by the Court approving the Settlement Agreement, approving the Fee Award, and approving the Service Award to the Class Representative.

1.15 “*Final Order and Judgment*” means the Court’s final judgment and order of dismissal in this Litigation, substantially in the form of Exhibit E hereto, that:

- i. Certifies the Settlement Class pursuant to 735 ILCS 5/2-801;
- ii. Finds that the Settlement Agreement is fair, reasonable, and adequate, was entered into in good faith and without collusion, and approves and directs consummation of this Agreement;
- iii. Dismisses Plaintiff’s claims pending before it with prejudice and without costs, except as explicitly provided for in this Agreement;
- iv. Approves the Release provided in Section 13 and orders that, as of the Effective Date, the Released Claims will be released as to the Released Parties;
- v. Reserves jurisdiction over the Settlement and this Agreement; and
- vi. Finds that, pursuant to 735 ILCS 5/2-1301, there is no just reason for delay of entry of final judgment with respect to the foregoing.

1.16 “*Lawsuit*” means the lawsuit captioned *McFarland v. SIU Physicians & Surgeons, Inc.*, Case No. 2021L64, currently pending in the Circuit Court of the First Judicial Circuit, Jackson County, Illinois.

1.17 “*Long Form Notice*” means notice of this Settlement, substantially in the form of Exhibit B hereto, which shall be posted on the Settlement Website in accordance with Section 5 below to inform Settlement Class Members of their rights and duties under this Settlement.

1.18 “*Notice*” means direct written notice of this Settlement, substantially in the manner set forth in this Agreement and in Exhibits A and B hereto, as well the Settlement Website, which collectively are to be used for purposes of providing notice of this Settlement to the Settlement Class Members consistent with the requirements of Due Process.

1.19 “*Notice and Claims Administration Costs*” means all actual costs and expenses associated with or arising from implementing this Settlement, including but not limited to all costs associated with providing Notice to Settlement Class Members, performing Claims Administration, disbursing payments to Class Members, and performing other claims administration functions, as set forth in Section 4 and 5 below and in accordance with this Settlement.

1.20 “*Notice Date*” means the date by which the Notice is to be disseminated to the Settlement Class, which shall be a date no later than thirty (30) days after the Preliminary Approval Date.

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

1.22 “*Objection/Exclusion Deadline*” means the date by which all objections to the Settlement and/or requests for exclusion from the Settlement by Settlement Class Members must be postmarked, submitted, and/or filed with the Court, as set forth herein. The Parties intend to request that the Court set the Objection/Exclusion on a date approximately forty-nine (49) days after the Notice Date.

1.23 “*Parties*” means Plaintiff Sharon J. McFarland, individually and on behalf of the Settlement Class (as defined below), and Defendant SIU Physicians & Surgeons, Inc., collectively.

1.24 “*Parties’ Counsel*,” “*Counsel for the Parties*,” or “*Counsel*” means both Settlement Class Counsel and Defendant’s Counsel, collectively.

1.25 “*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.

1.26 “*Plaintiff*” or “*Class Representative*” means Plaintiff Sharon J. McFarland.

1.27 “*Private Information*,” “*PII*,” “*Personally Identifiable Information*” or “*Protected Health Information*” means the names, addresses, Social Security numbers, driver’s license numbers, dates of birth, medical treatment information, health insurance information, and/or any other sensitive personally identifiable information of current or former SIUPS’s patients, including Plaintiff and the Settlement Class.

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

1.29 “*Preliminary Approval Order*” means the Court’s Order, substantially in the form of Exhibit D hereto, preliminarily approving the Settlement, certifying the Settlement Class for settlement purposes, and providing for Notice to the Settlement Class, substantially in the form of the Notice set forth in this Agreement.

1.30 “*Related Entities*” means SIUPS’s past or present parents, subsidiaries, divisions, and related or affiliated entities, and each of their respective predecessors, successors, owners, shareholders, directors, officers, employees, principals, agents, attorneys, insurers, and reinsurers, and includes, without limitation, any Person related to any such entity, including SIU School of Medicine and Board of Trustees of Southern Illinois University, who are, were, 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, or aiding or abetting the criminal activity associated with the Data Incident or who pleads *nolo contendere* to any such charge.

1.31 “*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; breach of the 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.

1.32 “*Released Persons*” means SIUPS, 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.

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

1.34 “*Settlement Administrator*” means, subject to Court approval, RG2 Claims Administration LLC (“RG2”), or another third-party settlement claims administrator, chosen by the Parties and subject to Court approval, that is experienced in formulating and effectuating notice programs and administering class action settlements.

1.35 “*Settlement Class Members*,” “*Class Members*,” or “*Class*” means each member of the Settlement Class, as defined in Section 2.3 of this Agreement, who does not timely elect to be excluded from the Settlement Class.

1.36 “*Settlement Class Counsel*,” “*Class Counsel*” or “*Plaintiff’s Counsel*” means Eugene Y. Turin, Timothy P. Kingsbury, and Chandne Jawanda of McGuire Law, P.C.

1.37 “*Settlement Website*” means a website, <http://siupsdataincidentsettlement.com>, established and administered by the Settlement Administrator, which will contain relevant documents and information about the Settlement, including electronic copies of Exhibit A and Exhibit B (or any forms of these documents that are approved by the Court), this Settlement Agreement, and all relevant Court documents related to the Settlement. Settlement Class Members shall be able to submit Claim Forms via the Settlement Website.

1.38 “*Service Award*” means the amount that may be requested and awarded to the Class Representative, subject to Court approval, in recognition and acknowledgement of the Class Representative’s participation, time, and effort devoted to obtaining this Settlement on behalf of the Settlement Class, as set forth in Section 8 below.

1.39 “*Short Form Notice*” means direct individual notice, substantially in the form of Exhibit A hereto, which will be sent to Settlement Class Members in accordance with Section 5 below.

1.40 “*SIUPS*” or “*Defendant*” means SIU Physicians & Surgeons, Inc.

1.41 “*SIUPS Counsel*” or “*Defendant’s Counsel*” means Polsinelli PC and their attorneys.

2. **Settlement Class Certification**

2.1 Solely for the purpose of implementing and effectuating the Settlement, the Parties stipulate and agree that: (1) the Settlement Class shall be certified in accordance with the definition contained in Paragraph 2.3 below; (2) Plaintiff is an adequate representative of the Settlement Class and shall be the Class Representative; and (3) Plaintiff’s Counsel are adequate counsel for the Settlement Class and shall be appointed as Class Counsel.

2.2 SIUPS does not consent to certification of the Settlement Class for any purpose other than to effectuate the Settlement and will not oppose Plaintiff’s request for certification.

2.3 Subject to Court Approval, the Parties shall request that the Court certify the following Settlement Class for settlement purposes:

“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.”

Defendant estimates that the class consists of approximately 41,000 individuals.

2.4 Expressly excluded from the Settlement class are all persons who timely elect to opt-out/exclude themselves from the Settlement, the Court and staff to whom this Lawsuit is assigned, any member of the Court’s or staff’s immediate family, and SIUPS’s officers and directors.

2.5 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, (a) this Settlement Agreement, and the certification of the Settlement Class provided for herein, shall be null, void, and vacated, and shall not be used or cited thereafter by any Persons; (b) 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, SIUPS 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, SIUPS shall make available the following compensation to Settlement Class Members:

3.1 **Monetary Compensation for Losses:** All Settlement Class Members who submit a valid and timely Claim Form may choose all applicable claim categories below. The overall compensation cap for any individual claimant is \$300.00 for all amounts claimed in Claim A and \$2,500.00 for all amounts claimed in Claim B, for a total compensation cap of \$2,800.00. Claims must be reviewed for completeness and plausibility by the Settlement Administrator.

(a) **Claim A: Compensation for Ordinary Losses.** Settlement Class Members will be eligible for compensation for unreimbursed ordinary losses, as defined below, up to a total of \$300.00 per claimant, upon submission of a valid Claim Form and supporting documentation, if applicable. Ordinary losses may include: (i) out of pocket expenses incurred as a direct result of the Data Incident, including bank fees supported by documentation substantiating the full extent of the amount claimed, long distance phone charges, cell phone charges (only if charged by the minute), data charges (only if charged based on the amount of data used), postage, or gasoline for local travel, all of which must be fairly traceable to the Data Incident, must not have been previously reimbursed by a third party and are reasonably supported by a personal attestation; (ii) fees for credit reports, credit monitoring, or other identity theft insurance product purchased between December 24, 2020 to the close of the Claims Period, so long as supported by documentation substantiating the full extent of the amount claimed, the claimant attests

they incurred such fees as a direct result of the Data Incident, and such fees were not already paid for or reimbursed by a third party; and (iii) up to 3 hours of lost time, at \$25.00/hour, if at least one (1) full hour was spent dealing with the Data Incident, provided that such lost time claimed is reasonably supported by a personal attestation that the time spent was incurred dealing with the Data Incident. The maximum amount any one claimant may recover under Claim A is \$300.00.

(b) Claim B: Compensation for Extraordinary Losses. Settlement Class Members will be eligible for up to \$2,500.00 in additional compensation for each Settlement Class Member who submits a valid and timely claim form and who proves monetary loss directly arising from identity theft or other fraud perpetrated on or against the Settlement Class Member, 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 occurred during the specified period; (iv) the loss is not already covered by one or more of the ordinary loss categories; and (v) the Settlement Class Member made reasonable efforts to avoid, or seek reimbursement for, the loss, including but not limited to exhaustion of all available credit monitoring insurance and identify theft insurance. Settlement Class Members seeking reimbursement under Paragraph 3.1(b) must submit to the Settlement Administrator an attestation regarding the extraordinary out-of-pocket loss being claimed, as well as documentation substantiating the full amount claimed. The maximum amount any one claimant may recover under Claim B is \$2,500.00.

3.2 **Credit Monitoring.** In addition to the monetary compensation available in Section 3.1 above, all Class Members are entitled to one (1) year of Experian Identity Works 3B Credit Monitoring (or a substantially similar credit monitoring product to the extent Experian Identity Work 3B Credit Monitoring is no longer available or has a different product name). Class Members who submit a valid claim requesting the credit monitoring will be asked to provide a valid email

address. The credit monitoring will activate after Final Approval by the Court for those Class Members who requested it.

3.3 **Non-Monetary Relief.** Defendant represents that it took reasonable steps to enhance its data security measures following the Data Incident, including Replacement of the Accellion file transfer application.

3.4 Payment of compensation to Class Members and payment of the 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 SIUPS, such as, for example, refunds of amounts paid or payable to SIUPS for medical care. It is also understood and agreed to by the Parties that payment of compensation to Class Members and payment of a Service Award are not subject to set-off or recoupment in the event unpaid bills or other amounts are due to SIUPS from the payee of such compensation or award.

4. **Settlement Administration**

4.1 The Parties intend to request that the Court appoint RG2 as the Settlement Administrator.

4.2 All Notice and Claims Administration Costs will be paid by SIUPS. If requested, Defendant shall pay to the Settlement Administrator a reasonable estimate of upfront Notice and Claims Administration Costs necessary to initiate the Notice Program.

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

4.4 To be eligible for approval, monetary compensation, and/or credit monitoring under the Settlement, all Settlement Class Members' claims must be submitted timely via a Claim Form, directly to the Settlement Administrator, electronically via the Settlement Website or via

U.S. Mail to the address provided in the Notice. The Claim Form shall be substantially in the form attached hereto as Exhibit C.

4.5 Claim Forms must be electronically submitted or postmarked no later than ninety (90) days from the Notice Date.

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

4.7 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 evidences that the claimant is eligible for the category and/or amount for which a claim is submitted. The Settlement Administrator may at any time make a request to a claimant for additional information 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.

4.8 For any for any partially-completed Claim Forms, the Settlement Administrator shall attempt to contact the Settlement Class Member who submitted the Claim Form at least one time by e-mail, telephone and/or U.S. Mail (i) to inform the Settlement Class Member of any error(s) and/or omission(s) in the Claim Form and (ii) to give the Settlement Class Member an opportunity to cure any errors and/or omissions in the Claim Form. The Settlement Class Member shall have until ninety (90) Days from the Notice Date, or fourteen (14) Days after the Settlement Administrator sends the e-mail, telephone, or regular mail notice to the Settlement Class Member regarding the deficiencies in the Claim Form, whichever is later, to cure the error(s) and/or omission(s) in the Claim Form.

4.9 Within thirty (30) days after the Claims Deadline, the Settlement Administrator shall process all Claim Forms submitted by Settlement Class Members and shall determine which claims are valid and initially approved and which claims are initially rejected. The Settlement Administrator may accept or reject any Claim Form submitted, and may, upon its discretion, request additional information prior to initially rejecting or accepting any Claim Form submitted. The Settlement Administrator shall employ reasonable procedures to screen Claim Forms for abuse and/or fraud, and shall deny Claim Forms which are incomplete and/or where there is evidence of abuse and/or fraud.

4.10 Within thirty (30) days of the Claims Deadline, the Settlement Administrator will submit to Counsel for SIUPS a report listing all initially approved Claims (“Initially Approved Claims List”), and upon request from counsel for SIUPS shall include an electronic PDF copy of all such initially approved Claim Forms. Within fourteen (14) days after Counsel for SIUPS receives the Initially Approved Claims List and related Claim Forms, they shall serve opposing counsel via secure file transfer with a Notice of Claim Challenges identifying the claim number of any initially approved Claim they wish to challenge, the claim amount, and the reason for the challenge.

4.11 Within thirty (30) days after the Claims Deadline, the Settlement Administrator will also provide Counsel for SIUPS with the claim number(s) of any Claim that is initially rejected, as well as the claim amount, and the reason(s) for the initial rejection. Counsel for SIUPS shall have five (5) days to review the documentation, redact any protected health information covered by HIPAA, and produce the documentation to Counsel for Plaintiff. Counsel for the Plaintiff shall have fourteen (14) days after the date they receive the information from Counsel for SIUPS to serve opposing counsel via secure file transfer with a Notice of Claim Challenges identifying any initially rejected claim they wish to challenge and the reasons for the challenge.

4.12 For the avoidance of doubt, Counsel for Plaintiff is not entitled to any Settlement Class Member’s personal health information including but not limited to, the name of the

Settlement Class Member, absent the Settlement Class Member's execution of a valid HIPAA release authorizing SIUPS to disclose the Settlement Class Member's information to Counsel for Plaintiff.

4.13 Counsel for the Parties shall meet and confer in an effort to resolve any disputes over any challenged claims. If the challenges are not withdrawn or resolved, the decision of the Settlement Administrator will be upheld. The date all claims are finalized without any further dispute shall be referred to as the "Claims Finalization Date." If neither Class Counsel nor Defendant's Counsel have any challenges to the initial claims determination reached by the Settlement Administrator, then the Claims Finalization Date shall be the date both Class Counsel and Defendant's Counsel inform each other by email that the Parties do not have any objection to the claims determination made by the Settlement Administrator or the time for informing each other of such challenges has lapsed.

4.14 Within seven (7) days of the Claims Finalization Date, the Settlement Administrator shall provide Counsel for the Parties a spreadsheet setting forth the claim number for each Claim that was accepted, and totaling the amount to be paid for each claimant

4.15 The Settlement Administrator will maintain records of all Claim Forms submitted until the later of (a) 180 (one hundred eighty) 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 SIUPS Counsel to the extent requested or necessary to resolve Claims Administration issues pursuant to this Settlement Agreement. SIUPS or the Settlement Administrator will provide other reports or information as requested by the Court.

4.16 Subject to the terms and conditions of this Settlement Agreement, Defendant shall transmit Settlement Class Members' compensation funds to the Settlement Administrator, and the Settlement Administrator shall mail or otherwise provide checks for Approved Claims within 60

(sixty) Days of the Effective Date, or within sixty (60) Days of the date that the Claim is approved, whichever is later.

4.17 Checks for Approved Claims shall be mailed to the address provided by the Settlement Class Member on their Claim Form. All checks issued under this section shall be void if not negotiated within ninety (90) 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,” or substantially similar language. 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 SIUPS 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 (not including any claim for credit monitoring). Such Settlement Class Member will remain bound by all terms of the Settlement Agreement.

4.18 Within sixty (60) Days of the Effective Date, the Settlement Administrator will email those Settlement Class Members who submitted valid Claim Forms requesting credit monitoring including a valid e-mail address a redeemable code to access one (1) year of Experian Identity Works 3B credit monitoring.

4.19 The settlement funds and benefits that Defendant 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 Defendant 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.

4.20 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, Settlement Class Counsel, and SIUPS's Counsel.

5. **Notice to Settlement Class Members**

5.1 **Class List.** Within seven (7) Days of the entry of the Preliminary Approval Order and engagement of the Settlement Administrator, SIUPS shall provide the Settlement Administrator with the names and mailing addresses of the Settlement Class Members whose mailing addresses are known to SIUPS. The Settlement Administrator shall take reasonable steps to confirm the contact information for Settlement Class Members on the Class List, including using the National Change of Address database maintained by the United States Postal Service, to obtain updates, if any, to the mailing addresses.

5.2 Prior to disseminating Notice, in addition to the process set forth above in Paragraph 5.1, the Settlement Administrator shall, using the Class List, perform a reverse address lookup, as needed, to determine the most current mailing address information for the Settlement Class Members.

5.3 Within thirty (30) Days of the entry of the Preliminary Approval, the Settlement Administrator shall send by First Class U.S. Mail the Notice substantially in the form of Exhibit A to all Settlement Class Members whose addresses are known to SIUPS.

5.4 If any Notice is returned by the U.S. Postal Service as undeliverable, the Settlement Administrator shall remail the Notice to the forwarding address, if any, provided by the U.S. 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 remail the Notice. Other than as set forth in the preceding sentence, neither the Parties nor the Settlement Administrator shall have any obligation to remail a Notice to a Settlement Class Member.

5.5 In addition to the direct distribution of the Short Form Notice to Settlement Class Members, a copy of the Long Form Notice, substantially in the form of Exhibit B, will be posted on the Settlement Website by the Settlement Administrator no later than the Notice Date.

5.6 Dissemination of the Notice shall be the responsibility of the Settlement Administrator. The Settlement Administrator shall have discretion to format this Short Form Notice in a reasonable manner to minimize mailing and administrative costs. Before the Short Form Notices are mailed, Settlement Class Counsel and SIUPS 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 and to make reasonable modifications in accordance therewith.

5.7 No later than thirty (30) Days following entry of the Preliminary Approval Order and engagement of a Settlement Administrator, and prior to dissemination of the Notice to Settlement Class Members, the Settlement Administrator will create a dedicated Settlement Website, which will contain at least the Complaint, Preliminary Approval Order, Short Form Notice, Long Form Notice (in both English and Spanish), Claim Form, and this Settlement Agreement. The Settlement Website will also include any Fee Petition filed by Class Counsel. Any other content proposed to be included or displayed on the Settlement Website shall be approved in advance by Class Counsel and SIUPS 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. Settlement Class Members shall be permitted to submit claims and requests for exclusion through the Settlement Website.

5.8 The Settlement Website shall be maintained and updated until any benefit checks issued pursuant to this Settlement are no longer valid.

5.9 Any information relating to Settlement Class Members provided to the Settlement Administrator pursuant to this Agreement shall be provided solely for the purpose of providing

Notice to Class Members and allowing them to recover under the Agreement; shall not be disclosed to Class Counsel or any third party; shall be destroyed after all distributions have been made and until any benefit checks issued pursuant to this Agreement are no longer valid; and shall not be used for any other purpose. The Settlement Administrator shall agree to keep Class List information confidential.

5.10 Prior to the Final Approval Hearing, the Settlement Administrator shall provide to Class Counsel and SIUPS 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 Notices shall inform each Settlement Class Member of their right to be excluded from the Settlement Agreement and not be bound by its terms if, by the Objection/Exclusion Deadline as ordered by the Court, the Settlement Class Member properly signs and submits a request for exclusion in accordance with this Section (“Opt-Out Request”). If the Settlement is finally approved by the Court, all Settlement Class Members who have not validly excluded themselves by the end of the Objection/Exclusion Deadline will be bound by the Settlement and will be deemed a Releasing Party.

6.3 The Parties intend to request that the Court set the Objection/Exclusion Deadline as no later than forty-nine (49) Days from the Notice Date.

6.4 A member of the Settlement Class Member may request to be excluded from the Settlement Class in writing by a request postmarked, or submitted electronically via the Settlement Website, on or before the Objection/Exclusion Deadline.

6.5 In order to exercise the right to be excluded, a Settlement Class Member must timely send a written request for exclusion to the Settlement Administrator providing their name,

address, telephone number, and email address; the case name and number of this Litigation, a statement that they wish to be excluded from the Settlement Class; and their signature. A request to be excluded that is sent to an address other than that designated in the Class Notice, or that is not electronically submitted or postmarked by the Objection/Exclusion Deadline, shall be invalid and the person serving such a request shall be considered a member of the Settlement Class and shall be bound as Settlement Class Members by the Agreement, if approved. The Settlement Administrator shall promptly inform Settlement Class Counsel and SIUPS Counsel of any Opt-Out Requests.

6.6 All Settlement Class Members who submit timely and valid Opt-Out Requests in the manner set forth in Paragraph 6.5, 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 6.5, above, shall be bound by the terms of this Settlement Agreement, including the Release contained in Section 13 herein, and any judgment entered thereon, regardless of whether they file a Claim Form or receive any monetary benefits from the Settlement.

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 they submit a valid and timely Opt-Out Request.

6.8 A Settlement Class Member who requests to be excluded from the Settlement Class also cannot object to the Settlement Agreement. Any Settlement Class Member who attempts to both object to and exclude themselves from this Settlement Agreement will be deemed to have excluded themselves and will forfeit the right to object to the Settlement or any of its terms.

6.9 Within five (5) business days after the Objection/Exclusion Deadline, the Settlement Administrator shall provide Class Counsel and Defendant's Counsel a written list reflecting all timely and valid exclusions from the Settlement Class.

6.10 A list reflecting all individuals who timely and validly excluded themselves from the Settlement shall also be filed with the Court at the time of the motion for final approval of the Settlement.

7. Objections To The Settlement

7.1 The Notices shall advise Settlement Class Members of their rights, including the right to object to the Settlement Agreement and its terms. The Notices shall specify that any objection to this Settlement Agreement, and any papers submitted in support of said objection, shall be received by the Court at the Final Approval Hearing only if, on or before the Objection/Exclusion Deadline approved by the Court, the person making an objection shall file notice of their intention to do so and at the same time: (i) file copies of such papers they propose to submit at the Final Approval Hearing with the Clerk of the Court; and (ii) send copies of such papers via United States mail, hand delivery, or overnight delivery to both Class Counsel SIUPS's Counsel. A copy of the objection must also be mailed to the Settlement Administrator at the address that the Settlement Administrator will establish to receive requests for exclusion or objections, Claim Forms, and any other communication relating to this Settlement.

7.2 Any Settlement Class Member who intends to object to this Settlement must include in any such objection: (i) their full name, address, email address, and current telephone number; (ii) the case name and number of the Litigation; (iii) all grounds for the objection, with factual and legal support for the stated objection, including any supporting materials; (iv) the

identification of any other objections they have filed, or have had filed on their behalf, in any other class action cases in the last four years; and (v) the objector's signature.

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, they must also file with the Court, and mail or hand-deliver to Settlement Class Counsel and SIUPS Counsel, a notice of appearance no later than the Objection/Exclusion Deadline.

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 to class action settlements such counsel has filed 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 Illinois 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, as approved by the Court.

7.7 Settlement Class Members cannot both object to and exclude themselves from this Settlement Agreement. Any Settlement Class Member who attempts to both object to and exclude themselves from this Settlement Agreement and fails to clarify their final choice will be deemed to have excluded themselves and will forfeit the right to object to this Settlement Agreement or any of its terms.

8. Attorneys' Fees, Costs and Expenses and Service Award

8.1 No less than twenty-one (21) Days prior to the Objection/Exclusion Deadline, Settlement Class Counsel will file a Fee and Expense Application with the Court, which shall be posted by the Settlement Administrator on the Settlement Website. Class Counsel have agreed, with no consideration from Defendant, to limit their fee and expense request to \$243,500.00 (two hundred forty-three thousand dollars). As part of their Fee and Expense Application, Class Counsel will also seek a Service Award for the Class Representative in an amount not to exceed \$7,500.00 (seven thousand five hundred dollars).

8.2 If approved by the Court, Defendant will pay the Court-approved Fee Award to an account established by Settlement Class Counsel no later than twenty-one (21) Days after the Effective Date. The Service Award shall be paid by check payable to Plaintiff and mailed by the Settlement Administrator to an address specified by Plaintiff's Counsel no later than twenty-one (21) Days after the Effective Date.

8.3 The Parties agree that SIUPS will not in any event or circumstance be required to pay any amounts to Plaintiff or 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.

8.4 The Parties agree that the Court's approval or denial of any request for a Service Award and/or attorneys' fees and expenses are not conditions to this Settlement Agreement. The Parties further agree that the amount(s) of a Fee Award and Service Award 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 Fee Award or Service Award 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:

Eugene Y. Turin
Timothy P. Kingsbury
MCGUIRE LAW, P.C.
55 West Wacker Drive, 9th Fl.
Chicago, Illinois 60601
eturin@mcgpc.com
tkingsbury@mcgpc.com

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

Mark A. Olthoff
Catherine A. Green
POL SINELLI PC
900 W. 48th Place, Suite 900
Kansas City, Missouri 64112-1895
molthoff@polsinelli.com
cgreen@polsinelli.com

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, Plaintiff, through Class Counsel, will file an unopposed motion for an order preliminarily approving the Settlement (“the Unopposed Motion for Preliminary Approval”). At the hearing on the Unopposed Motion for Preliminary Approval, the Parties will jointly appear and support the granting of the Unopposed Motion for Preliminary Approval. The Unopposed Motion for Preliminary Approval will seek entry of an Order that:

- (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 SIUPS to provide notice to Settlement Class Members in accordance with the Notice Program provided for in this Settlement Agreement;
- (f) Approves the Short Form Notice, in a form substantially similar to the one attached hereto as Exhibit A, and the 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; and

(l) 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 Class Counsel and SIUPS 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 approximately 130 (one hundred thirty) Days after the entry of the Preliminary Approval Order.

11.2 At least ten (10) days prior to the Final Approval Hearing, or by some other date if so directed by the Court, Plaintiff will move for, and file a memorandum in support of: (i) final approval of the Settlement; (ii) final appointment of the Class Representative and Class Counsel; and (iii) final certification of the Settlement Class, including for the entry of a Final Order and Judgment in substantially the same form as Exhibit E.

11.3 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 SIUPS shall have the right to terminate this Settlement Agreement if the total number of Opt-Outs exceeds one hundred (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 by the Settlement Administrator

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 SIUPS 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) SIUPS 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) SIUPS 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 SIUPS or any Released Persons with respect to the Released Claims.

13.2 Upon the Effective Date, and to the fullest extent permitted by law, Plaintiff and each Settlement Class Member who does not validly exclude themselves from the Settlement 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 and Related Entities 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. In exchange for the good and valuable consideration set forth herein, with respect to any and all Released Claims, the Parties stipulate and agree that upon the Effective Date, Plaintiff and each Settlement Class Member shall be deemed to have, and by operation of the Judgment shall have, waived the provisions, rights, and benefits conferred by Section 1542 of the California Civil Code (or similar statute in effect in any other jurisdiction), which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Settlement Class Members, including Plaintiff, and any of them, may hereafter discover facts in addition to, or different from, those that they now know or believe to be true with respect to the subject matter of the Released Claims, but Plaintiff and each Settlement Class Member shall be deemed to have, and

by operation of the Judgment shall have, upon the Effective Date, fully, finally, and forever settled and released any and all Released Claims. The Parties acknowledge that the foregoing waiver is a material element of the Settlement Agreement.

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 SIUPS 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 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;

(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 SIUPS or the Released Persons or any admission by SIUPS 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 SIUPS 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, SIUPS, SIUPS Counsel, the Settlement Administrator, 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 Illinois 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 SIUPS 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 Parties may agree, subject to the approval of the Court where required, to reasonable extensions of time to carry out the provisions of the Agreement.

15.16 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).

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

15.18 This Settlement Agreement may be executed in one or more counterparts exchanged by hand, messenger, or PDF as an electronic mail attachment, 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.

15.19 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.

15.20 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 HEREOF, the undersigned have caused this Settlement Agreement to be executed as of the dates set forth below.

SHARON J. MCFARLAND, individually and
as Class Representative

Signature: _____

Date: _____

MCGUIRE LAW, P.C., as Class Counsel

By: _____

Print Name: _____

Date: _____

SIU PHYSICIANS & SURGEONS, INC.

By: _____

Print Name: _____

Date: _____

POLSINELLI, P.C., as Defendant's Counsel

By: _____

Print Name: _____

Date: _____

EXHIBIT A

McFarland v. SIU Physicians & Surgeons, Inc.
Case No. 2021L64 (Cir. Ct. Jackson County, Illinois)

YOU MAY BE ELIGIBLE FOR CASH COMPENSATION AND FREE CREDIT MONITORING IF YOU WERE MAILED A NOTICE BY SIUPS REGARDING A DATA INCIDENT THAT OCCURRED IN DECEMBER 2020 AND JANUARY 2021.

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

**For more information, visit <http://siupsdataincidentsettlement.com/>.
Para una notificación en Español, llamar o visitar nuestro sitio web.**

A proposed settlement has been reached in a class action lawsuit against SIU Physicians & Surgeons, Inc. (“SIUPS”) relating to the potential compromise of private information of current and/or former patients of SIUPS in December 2020 and January 2021 (the “Data Incident”). SIUPS 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? SIUPS records show you received a notification from SIUPS of the Data Incident, and, therefore, you are included in this Settlement as a “Settlement Class Member.”

SETTLEMENT BENEFITS. The Settlement provides credit monitoring and two types of payments compensation to people who submit valid claims and required documentation.

- 1) **Credit Monitoring:** Free access to three bureau (3B) credit monitoring services for a period of one year from the Effective Date of the Settlement.
- 2) **Ordinary Losses:** Reimbursement of up to \$300.00 for documented out-of-pocket losses and up to three hours of attested lost time at \$25.00 per hour that resulted from the Data Incident;
- 3) **Extraordinary Losses:** Reimbursement of up to \$2,500.00 for documented extraordinary losses arising from misuse or fraud which were more likely than not caused by the Data Incident.

THE ONLY WAY TO OBTAIN BENEFITS IS TO FILE A CLAIM. You must complete and submit a Claim Form by _____, 2023, including required documentation. **To file online or to get a Claim Form, visit the website at <http://siupsdataincidentsettlement.com/>.** 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 SIUPS for the claims resolved by this Settlement.

If you do not want to be legally bound by the Settlement, you must exclude yourself by **XXX, XX, 2023**. If you do not exclude yourself, you may object to it by **XXX, XX, 2023**. The detailed notice, available at the settlement website listed below or through the Settlement Administrator, explains how to exclude yourself or object. The Court will hold a hearing on **XXX, XX, 2023** to consider whether to approve the Settlement, Class Counsel’s request for attorneys’ fees and expenses of up to \$_____, and a service award for the Class Representative of \$_____. Class Counsel’s fee request will be made available on the settlement website. You can appear at the hearing, but you do not have to.

THE FAIRNESS HEARING. On _____, 2023, 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, a service award for the Representative Plaintiff, and any objections. If you want, you can hire your own attorney, at your own expense, to appear or speak for you at the hearing. Please check the settlement website for updates on the date, time, and format of the final approval hearing.

MORE INFORMATION. Complete information about your rights, options, and deadlines, as well as Claim Forms and a more detailed notice are available <http://siupsdataincidentsettlement.com/>.

For more information and for a Claim Form visit http://siupsdataincidentsettlement.com

EXHIBIT B

PLEASE READ THIS NOTICE CAREFULLY. YOU MAY BE ENTITLED TO CASH COMPENSATION AND FREE CREDIT MONITORING FROM A CLASS ACTION SETTLEMENT IF YOU WERE MAILED A NOTICE BY SIU PHYSICIANS & SURGEONS, INC. REGARDING A DATA INCIDENT THAT OCCURRED IN DECEMBER 2020 AND JANUARY 2021.

A 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 SIU Physicians & Surgeons, Inc. (“SIUPS”) for the potential compromise of private information of current and/or former patients of SIUPS in December 2020 and January 2021 (the “Data Incident”). The information involved in the Data Incident potentially included names, addresses, Social Security numbers, driver’s license numbers, dates of birth, medical treatment information, and/or health insurance information relating to SIUPS patients.

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, and/or charges that were incurred and plausibly arose from the Data Incident, and for other extraordinary unreimbursed monetary losses. The Settlement also offers one year of free credit monitoring services to Class Members who request it. 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 free credit monitoring and/or a cash payment.
EXCLUDE YOURSELF FROM THE SETTLEMENT	You will <u>not</u> get any payment or credit monitoring services from the Settlement, but you also will not release your claims against SIUPS. This is the only option that allows you to be part of any other lawsuit against SIUPS 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 <u>not</u> get any payment or credit monitoring services 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 <http://siupsdataincidentsettlement.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.

What This Notice Contains

BASIC INFORMATION	PAGE __
1. Why is this Notice being provided?	
2. What is this lawsuit about?	
3. What is a class action?	
4. Why is there a Settlement?	
WHO IS INCLUDED IN THE SETTLEMENT?	PAGE __
5. How do I know if I am part of the Settlement?	
6. Are there exceptions to being included in the Settlement?	
THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY	PAGE __
7. What does the Settlement provide?	
8. What payments are available for Ordinary Loss Reimbursement?	
9. What payments are available for Extraordinary Loss Reimbursement?	
HOW TO GET BENEFITS—SUBMITTING A CLAIM FORM	PAGE __
10. How do I get benefits from the Settlement?	
11. How will claims be decided?	
12. When will I get my payment?	
REMAINING IN THE SETTLEMENT	PAGE __
13. Do I need to do anything to remain in the Settlement?	
14. What am I giving up as part of the Settlement?	
EXCLUDING YOURSELF FROM THE SETTLEMENT	PAGE __
15. If I exclude myself, can I still get payment from the Settlement?	
16. If I do not exclude myself, can I sue SIUPS for the same thing later?	
17. How do I get out of the Settlement?	
THE LAWYERS REPRESENTING YOU	PAGE __
18. Do I have a lawyer in this case?	
19. How will Settlement Class Counsel be paid?	
OBJECTING TO THE SETTLEMENT	PAGE __
20. How do I tell the Court that I do not like the Settlement?	
21. What is the difference between objecting to and excluding myself from the Settlement?	
THE COURT’S FINAL FAIRNESS HEARING	PAGE __
22. When and where will the Court decide whether to approve the Settlement?	
23. Do I have to come to the Final Fairness Hearing?	
24. May I speak at the Final Fairness Hearing?	
IF YOU DO NOTHING	PAGE __
25. What happens if I do nothing?	
GETTING MORE INFORMATION	PAGE __
26. Are more details about the Settlement available?	
27. How do I get more information?	

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 the 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 any objections or appeals are resolved, the Settlement Administrator appointed by the Court will distribute the payments and services that the Settlement provides for. This Notice explains the lawsuit, the Settlement, your legal rights, what payments and services are available, who is eligible for them, and how to get them.

The Honorable Michael Fiello of the Circuit Court of Jackson County, Illinois is overseeing this class action. The case is *McFarland v. SIU Physicians & Surgeons, Inc.* (“SIUPS”), Case No. 2021L64 (the “Lawsuit”). The person who filed the Lawsuit is called the Plaintiff, and the company sued, SIUPS, is called the Defendant.

2. What is this lawsuit about?

On or about January 2021, SIUPS discovered that an unknown, unauthorized third party accessed its Accellion electronic file transfer service, and potentially information relating to certain SIUPS patients’ personal information, for short periods of time in December 2020 and January 2021. The Lawsuit claims that SIUPS was responsible for the Data Incident and asserts claims under five counts: (1) negligence; (2) breach of implied contract; (3) breach of the implied covenant of good faith and fair dealing; (4) violation of the Illinois Consumer Fraud and Deceptive Business Practices Act; (5) unjust enrichment; and (6) invasion of privacy – public disclosure of private facts. The Lawsuit seeks, among other things, payment for persons who were injured by the Data Incident. SIUPS denies each and all of the claims and contentions alleged against it in the Lawsuit. SIUPS denies all allegations of wrongdoing or liability as alleged, or which could be alleged, in the Lawsuit. SIUPS denies it was negligent, breached any implied contract or implied covenant of good faith and fair dealing, violated any state or federal statute, was unjustly enriched, or that anyone’s privacy was invaded.

3. What is a class action?

In a class action, one or more people called Class Representatives (in this case, Sharon McFarland) 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 Hon. Michael A. Fiello – 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 SIUPS. Instead, the Plaintiff negotiated a settlement with SIUPS that allows both Plaintiff and SIUPS 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 compensation without further delay. The Class Representative and her attorneys think the Settlement is best for all Settlement Class Members. This Settlement does not mean that SIUPS 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 SIUPS of the Data Incident.

If you are not sure whether you are a Class Member, you may go to the Settlement website at <http://siupsdataincidentsettlement.com> or call 1-XXX-XXX-XXXX.

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

Yes. Specifically excluded from the Settlement Class are: (i) SIUPS 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 free credit monitoring and/or monetary payments to people who submit valid claims.

SIUPS will provide each Settlement Class Member who submits a valid Claim Form with a code for one year of three-bureau (3B) Credit Monitoring service to be used after the Court grants final approval to the Settlement.

In addition, there are also two types of monetary payments that are available: (1) Ordinary Loss Compensation (Question 8, below); and (2) Extraordinary Loss Compensation (Question 9, below). To claim each type of payment, you must provide the information and documentation requested on the Claim Form.

8. What payments are available for ORDINARY LOSS COMPENSATION?

Class Members are eligible to receive compensation of up to \$300.00 (in total) for the following categories of out-of-pocket expenses and lost time resulting from the Data Incident:

- (a) 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 December 24, 2020, through the date of preliminary approval; and miscellaneous expenses, such as notary, fax, postage, copying, mileage, and long-distance telephone charges; and
- (b) Reimbursement of up to three hours of lost time (at \$25.00 per hour) shown and attested to 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.

More details are provided in the Settlement Agreement, which is available at <http://siupsdataincidentsettlement.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: (i) the loss is an actual, documented and unreimbursed monetary loss; (ii) the loss was more than likely not caused by the Data Incident; (iii) the loss occurred during the specified period; (iv) the loss is not already covered by one or more of the ordinary loss category under Question 8; and (v) the class member made reasonable efforts to avoid, or seek reimbursement for, the loss, including but not limited to exhaustion of all available credit monitoring insurance and identify theft insurance.

More details are provided in the Settlement Agreement, which is available at <http://siupsdataincidentsettlement.com>.

HOW TO GET BENEFITS—SUBMITTING A CLAIM FORM

10. How do I get benefits from the Settlement?

To obtain free credit monitoring or monetary compensation, you must complete and submit a Claim Form. Claim Forms may be submitted online at <http://siupsdataincidentsettlement.com>, or printed from the website and mailed to the Settlement Administrator at the address listed below. Read the instructions carefully, fill out the Claim Form electronically, or mail it postmarked no later than _____, 2023 to:

SIUPS Claims Administrator
PO Box XXXXX
City, State zip code

11. How will claims be decided?

The Claims Administrator will initially decide whether the information provided on the Claim Form is complete and valid. The Claims Administrator may require additional information from any claimant. If the required information is not timely provided, 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 cure and potential problems or defects.

12. When will I get my payment?

The Court will hold a Final Fairness Hearing at __:__ o'clock __.m. on _____, 2023 to decide whether to approve the Settlement. If the Court approves the Settlement, you will receive your payment and/or your code for free credit monitoring within approximately 60 days of the Effective Date. If there is an appeal of the Settlement, payment may be substantially delayed. 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 and/or credit monitoring you must submit a Claim Form, electronically or by mail, postmarked by _____, 2023.

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

If the Settlement becomes final, you will give up your right to sue SIUPS for the claims being resolved by this Settlement. The specific claims you are giving up against SIUPS are described in Section II.1.31 of the Settlement Agreement. You will be “releasing” SIUPS and all related people or entities as described in Sections II.1.31 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 are welcome 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 or credit monitoring from this Settlement, but you want to keep the right to sue SIUPS 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 SIUPS for the same thing later?

No. Unless you exclude yourself from the Settlement, you give up any right to sue SIUPS 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 or credit monitoring.

17. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must mail a signed letter to the Settlement Administrator at SIUPS Settlement Administrator, P.O. Box ____, _____, postmarked by _____, 2023. You may also exclude yourself online at <http://siupsdataincidentsettlement.com>. The deadline to exclude yourself online is _____, 2023. If you choose to exclude yourself by mail, the exclusion letter must state that you exclude yourself from the settlement in *McFarland v. SIU Physicians & Surgeons, Inc.*, Case No. 2021L64, and must also include your full name, address, telephone number, and your personal signature. So-called “mass” or “class” exclusion requests are not permitted.

THE LAWYERS REPRESENTING YOU

18. Do I have a lawyer in this case?

Yes. The Court has appointed the following attorneys to represent the Settlement Class. They are called “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

Eugene Y. Turin
Timothy P. Kingsbury
Chandne Jawanda
MCGUIRE LAW, P.C.
55 W. Wacker Drive, 9th Fl.
Chicago, IL 60601
eturin@mcgpc.com
tkingsbury@mcgpc.com
cjawanda@mcgpc.com
Tel: 312-893-7002

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 litigation costs no greater than \$243,500.00 (two hundred forty-three thousand dollars) and a Class Representative Service Award not to exceed the total amount of \$7,500.00 (seven thousand five hundred dollars). If approved, these amounts, as well as the costs of notice and settlement administration, will be paid separately by SIUPS.

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 SIUPS’s Counsel a written notice stating that you object to the Settlement in *McFarland v. SIU Physicians & Surgeons, Inc.*, Case No. 2021L64.

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; and
- 8) 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 Circuit Court of the First Judicial Circuit, Jackson County, Illinois, Jackson County Courthouse 1001 Walnut Street P.O. Box 730, Murphysboro, IL 62966 no later than _____, **2023**. You must also mail copies of your objection to Settlement Class Counsel and SIUPS’s Counsel, postmarked no later than _____, **2023**, at all of the addresses below:

SETTLEMENT CLASS COUNSEL	SIUPS’S COUNSEL
Eugene Y. Turin Timothy P. Kingsbury McGuire Law, P.C. 55 West Wacker Drive, 9th Fl. Chicago, Illinois 60601 eturin@mcgpc.com tkingsbury@mcgpc.com	Mark A. Olthoff Catherine A. Green POLSINELLI PC 900 W. 48th Place, Suite 900 Kansas City, MO 64112 Phone: (816) 753-1000 molthoff@polsinelli.com cgreen@polsinelli.com Kevin M. Hogan Polsinelli PC 150 N. Riverside Plaza, Suite 3000 Chicago, Illinois 60606 kmhogan@polsinelli.com

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. You cannot both exclude yourself and object to the 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 _____, 2023, in the Circuit Court of the First Judicial Circuit, Jackson County, Illinois, Jackson County Courthouse 1001 Walnut Street P.O. Box 730, Murphysboro, IL 62966. 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 service award requested for the Class Representative. The hearing is subject to being changed by the Court, including taking place remotely via videoconference, so please visit <http://siupsdataincidentsettlement.com> for updates.

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 SIUPS 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, along with other documents relevant to this Litigation, are available at <http://siupsdataincidentsettlement.com>. If you have any questions, you can also call the Settlement Administrator at xxxxxx or contact Class Counsel at the number or email addresses set forth in Question 18 above.

27. How do I get more information?

Go to <http://siupsdataincidentsettlement.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

CLAIM FORM

DEADLINE TO SUBMIT: _____

ATTENTION: This Claim Form is to be used to apply for free credit monitoring and/or monetary compensation from the settlement of a lawsuit with SIU Physicians & Surgeons, Inc. (“SIUPS”). The lawsuit alleges that SIUPS suffered a data incident in December 2020 and January 2021, which resulted in the potential compromise of patients’ 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) A code for one (1) year of free 3B Credit Monitoring.

(B) Compensation for ordinary losses attributable to the Data Incident, which 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 in December of 2020 and January of 2021, 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 three (3) hours of lost time (at \$25.00 per hour) provided that you certify the lost time was spent in response to the Data Incident; and

(C) 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, which is available at <http://siupsdataincidentsettlement.com>.

If you wish to submit a Claim Form electronically, you may go online to the Settlement Website, <http://siupsdataincidentsettlement.com>, and follow the instructions on the “Submit a Claim” page. Electronic submission must be made by _____, 2023.

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 RG 2 Claims Administration LLC , address, postmarked by _____, 2023. 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: _____ Email: _____

2. Claim Information

Claim A: Credit Monitoring

To obtain one year of three-bureau credit monitoring from Experian, you must select the box below and provide a valid email address to the Settlement Administrator. If the Settlement is finally approved, an access code for the credit monitoring will be emailed to you.

I would like to receive a code for one year of three-bureau credit monitoring from Experian.

Email address: _____

Claim B: 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 as a direct result of the Data Incident including fees for credit reports, credit monitoring, or other identity theft insurance product purchased between December 24, 2021 and the close of the Claims Period and miscellaneous expenses such as bank fees supported by documentation substantiating the full extent of the amount claimed; long distance phone charges; cell phone charges (only if charged by the minute); data charges (only if charged based on the amount of data used); postage; gasoline for local travel.

Total Amount of Ordinary Losses \$ _____

If you attested to the above, in the following chart 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.

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

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

(Settlement Class Members are eligible for compensation for up to a total of \$300.00 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 \$300.00 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 B: Ordinary Losses – Lost Time Reimbursement

Settlement Class Members are eligible for compensation for up to a total of \$300.00 per person for Ordinary Losses, including expenses and Lost Time. Lost Time may include up to 3 hours of lost time at \$25.00 per hour, for time spent dealing with the Data Incident.

If you elect to obtain reimbursement for personal time spent addressing issues arising out of the Data Incident, you must attest to 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

Claim C: 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 the loss occurred after December 24, 2021; **AND** the loss is not already covered by one or more of the ordinary loss compensation categories under Claim A or B; **AND** I 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** 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 C: 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 C, 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 certify and declare 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, 2023.

If you have any questions about the Claim Form, please call the Settlement Administrator at xxxxxxxx or contact Class Counsel at tkingsbury@mcgpc.com.

EXHIBIT D

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

**[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.

On September 15, 2021, Plaintiff Sharon McFarland (“Plaintiff” or “Settlement Class Representative”) brought this class action case against SIU Physicians & Surgeons, Inc. (“SIUPS” or “Defendant”) (together with Plaintiff, the “Parties”). In the Class Action Complaint (“Complaint”), Plaintiff asserted claims for: (1) negligence; (2) breach of implied contract; (3) breach of the implied covenant of good faith and fair dealing; (4) violation of the Illinois Consumer Fraud and Deceptive Business Practices Act; (5) unjust enrichment; and (6) invasion of privacy – public disclosure of private facts. The Defendant has denied the claims and asserted affirmative defenses.

According to the Complaint, SIUPS experienced a data incident, which resulted in the potential compromise of patients’ personally identifiable information. The information potentially compromised consisted of names, addresses, Social Security numbers, driver’s license numbers, dates of birth, medical treatment information, and/or health insurance information.

The Parties, through their counsel, have entered into a Settlement Agreement following good faith, arm's-length negotiations and a mediation overseen by Hon. Diane Joan Larsen (Ret.) of JAMS. 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 735 ILCS 5/2-802, the Court provisionally certifies a class in this matter 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.

The Court provisionally finds, for settlement purposes only, that: (1) the class is so numerous that joinder of all members is impracticable, (2) there are questions of law or fact common to the class, (3) the claims or defenses of the Settlement Class Representative are typical of the claims or defenses of the class, and (4) the Settlement Class Representative will fairly and adequately protect the interests of the class; (5) the questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy; and (6) attorneys for the Settlement Class Representative will adequately represent the interests of the Settlement Class.

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

Sharon McFarland is hereby provisionally designated and appointed as the Settlement Class Representative. The Court provisionally finds that the Settlement Class Representative is similarly situated

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

to absent Class Members and therefore typical of the Class and that he will be an adequate Settlement Class Representative.

The Court finds that McGuire Law, P.C. and its attorneys are experienced and adequate counsel and are hereby provisionally designated as Settlement Class Counsel.

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 Court.

5. **Final Approval Hearing.** A Final Approval Hearing shall be held on _____, 2023 at _____ o'clock [a.m./p.m.] in Circuit Court of the First Judicial Circuit, Jackson County, Illinois, Jackson County Courthouse, 1001 Walnut Street, Murphysboro, IL 62966, to determine, among other things, whether: (a) this matter should be finally certified as a class action for settlement purposes pursuant to 735 ILCS 5/2-802; (b) the Settlement should be finally approved as fair, reasonable, and adequate pursuant to 735 ILCS 5/2-802; (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; and (f) the motion of the Settlement Class Representative for a Service Award (the "Service Award Request") should be approved.

Plaintiff's Motion for Final Approval of the Settlement shall be filed with the Court at least 10 Days prior to the Final Approval Hearing. In addition, Plaintiff's motion for an award of attorneys' fees and expenses and for a Service Award for the Class Representative shall be filed with the Court at least 21 Days prior to the deadline for Settlement Class Members to opt-out or object.

6. **Administration.** The Court appoints RG 2 Claims Administration LLC ("RG 2") 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, which are attached to the Settlement Agreement as Exhibits A, B, and C, respectively, satisfy the requirements of 735 ILCS 5/2-801 and 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 Parties and the Settlement Administrator 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 SIUPS shall initiate the Notice Program, which shall be completed in the manner set forth in 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 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; and (c) are reasonable and constitute due, adequate, and sufficient notice to all Class Members and other persons entitled to receive notice. The Court concludes that the Notice Program meets all applicable requirements of law, including 735 ILCS 5/2-803, and the Due Process Clause(s) of the Illinois 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 (if

mailed) or submitted electronically no later than 49 Days from the date Notice is mailed (the “Opt-Out Period”), or _____, **2023**. 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 shall attach to their Motion for Final Approval.

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 Service 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 49 days from the date the Notice is mailed (“Objection Date”), or _____, **2023**. For an objection to be

considered by the Court, the objection must also include all of the information set forth in Paragraph 7.1-7.2 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; and
- g. The signature of the objector's duly authorized attorney or other duly authorized representative, along with documentation setting forth such representation.

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 Service 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: (i) the attorney(s) name, address, phone number, and email address; (ii) the attorney's state bar(s) to which counsel is admitted, as well as associated state bar numbers; and (iii) 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 Service 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, including whether the hearing is conducted in person or remotely, 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: _____, 2023 [30 Days after Preliminary Approval]

Motion for Service Award, Attorneys' Fees and Costs: _____, 2023 [21 Days before the Objection/Opt Out Deadline]

Motion for Final Approval: _____, 2023 [30 Days before Final Approval Hearing]

Opt-Out Deadline: _____, 2023 [49 Days after the Notice is mailed]

Objection Deadline: _____, 2023 [49 Days after the Notice is mailed]

Claim Deadline: _____, 2023 [90 Days after the Notice is mailed]

Final Approval Hearing: _____, 2023 [Not less than 130 Days after Preliminary Approval]

IT IS SO ORDERED this ____ day of _____, 2023.

Hon. Michael A. Fiello
Circuit Court Judge
Circuit Court of Jackson County, Illinois

EXHIBIT E

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

**[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 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 _____ day of _____, 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 _____, 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, ____ 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 \$_____. 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 \$_____ 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 _____ day of _____, 2023.

Hon. Michael A. Fiello
Presiding Justice