

IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

ENTERED
NOV 30 2022



D136780671

IN RE: SOUTHERN OHIO HEALTH
SYSTEMS DATA BREACH

: Case No. A2101886

:
: JUDGE JENNIFER BRANCH

:
: ORDER GRANTING
: PLAINTIFFS' MOTION FOR FINAL
: APPROVAL OF CLASS ACTION
: SETTLEMENT

Before this Court is Plaintiffs' Motion for Final Approval of Class Action Settlement and Class Counsel's Application for Attorneys' Fees, Costs and Expenses, and Class Representative Contribution Award ("Final Approval Filings"). The Final Approval Filings seek (a) certification of the Settlement Class for settlement purposes; (b) final approval of the proposed Settlement preliminarily approved by this Court on August 2, 2022 and memorialized in the Settlement Agreement; (c) dismissal with prejudice of Plaintiffs' and Settlement Class Members' claims against Defendants; (d) approval of Class Counsel's attorney fees and reimbursement of expenses; and (e) approval of service awards for the class representatives. In connection with the Motion for Final Approval, the Court considered the pleadings, all exhibits and affidavits thereto, and the arguments of counsel.

The Final Approval Hearing was duly held before this Court on November 17, 2022 to determine: (a) whether certification of the Settlement Class for settlement purposes is appropriate; (b) whether the proposed Settlement on the terms and conditions provided for in the Settlement Agreement is fair, reasonable, and adequate; (c) whether a final judgment should be entered; (d) whether to approve Class Counsel's request for an award of attorneys' fees and reimbursement of

expenses; and (e) whether to grant Plaintiffs' request for service awards to the class representatives. The Court, having read and considered all submissions, evidence, objections, and argument made in connection with the Final Approval Filings, finds that final approval is appropriate and concludes as follows.

IT IS HEREBY ORDERED THAT:

1. The definitions and terms set forth in the Settlement Agreement are hereby adopted and incorporated into this Order.

2. The Court has jurisdiction over the subject matter of this action, the parties, and Settlement Class Members.

3. As part of its August 2, 2022 Preliminary Approval Order, the Court preliminarily certified for settlement purposes a Settlement Class defined as follows:

The 369,736 individuals identified on the TriHealth, Inc. Settlement Class List and the 50,697 individuals identified on the Adena Health System Settlement Class List whose certain personal information was involved in the Data Breach. Excluded from the Settlement Class are: (1) the Judge presiding over this Action, and members of her direct families; (2) the Defendants, their subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendants or their parents have a controlling interest and their current or former officers, directors, and employees; and (3) Settlement Class Members who submit a valid Request for Exclusion prior to the Opt-Out Deadline.

The Court hereby affirms this definition of the Settlement Class for purposes of this Final Order and Judgment and certifies this action, for Settlement purposes only, as a class action pursuant to Civ. R. 23(B)(3). In so doing, the Court finds, for Settlement purposes only, that the action meets all the requirements of Rule 23 of the Ohio Rules of Civil Procedure and due process and can therefore be certified as a class action because: (1) the Settlement Class is so numerous that joinder of all members is impracticable; (2) there are questions of law or fact that are common to the Settlement Class; (3) the claims of the representative Plaintiffs are typical of the claims of the

Settlement Class; (4) the representative Plaintiffs James Jones, Derishia Smith, and Tommie Shearer, and Class Counsel, Joseph M. Lyon, Jeffrey S. Goldenberg and Brian D. Flick, have fairly and adequately protected the interests of the Settlement Class; (5) the common issues predominate; and (6) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

4. Plaintiffs and Defendants have entered into the Settlement Agreement, which has been filed with the Court and is incorporated herein by reference. The Settlement Agreement provides for the settlement of this action on behalf of the representative Plaintiffs and the members of the Settlement Class, subject to final approval by the Court. The Settlement Agreement provides that, in exchange for the release described in the Settlement Agreement and this Final Order and Judgment, Defendants shall create a non-reversionary common fund of \$1,950,000.00 ("Fund"), which will cover all settlement costs (notice, fees, administration) and provide two separate forms of relief to the class members: (1) reimbursement for loss of time compensated at \$20.00 per hour for up to 4 hours (\$80 cap) for undocumented time, and \$20 per hour for up to 8 additional hours (\$160 cap) for documented time; and (2) reimbursement for documented out-of-pocket expenses and financial losses up to \$5,000.00 per claimant.

5. The Court finds that the Settlement Agreement is the result of arm's length negotiation by the parties. In addition, the Court finds that approval of the Settlement Agreement and the proposed Settlement embodied therein will result in substantial savings in time and resources to the Court and the litigants and will further the interests of justice. Further, the Court finds that the Settlement Agreement is within the range of possible settlements suitable for final approval as fair, just, equitable, and reasonable, and is in the best interest of the Settlement Class based on the record (including the Court's review and assessment of the one objection received),

and the due diligence of Class Counsel.

6. The Court has reviewed the forms of the Notice provided to potential Class Members, including the written and electronic forms of Notice and the Settlement Website, and concludes that the Notice Program implemented by CPT Group and Class Counsel in this matter was fair and reasonable, satisfies Rule 23 and due process, and constitutes adequate notice to the Class of the settlement of this Action.

7. The Settlement of the action on the terms and conditions set forth in the Settlement Agreement is finally approved and confirmed in all respects as fair, reasonable, and adequate under Rule 23 of the Ohio Rules of Civil Procedure. Furthermore, the Settlement as approved is in the best interest of the Settlement Class and Settlement Class Members, especially in light of the benefits to the Settlement Class and the costs and risks associated with the complex proceedings necessary to achieve a favorable result through pre-trial proceedings, class certification proceedings, trial, and appeals.

8. The Court finds that Class Counsel Joseph M. Lyon, Jeffrey S. Goldenberg, and Brian D. Flick have fairly and adequately represented the interests of the Settlement Class and satisfied the requirements of Ohio R. Civ. P. 23.

9. Class Counsel has requested attorneys' fees in an amount of \$649,935.00. Class Counsel's fee request is reasonable under the circumstances in this case and in light of the value of the Settlement benefits made available to the Class.

10. Class Counsel's request for attorneys' fees in an amount of \$649,935.00 (one third of the common fund) is reasonable and hereby approved. Class Counsel has also submitted a summary of \$21,268.09 in expenses reasonably incurred in this matter which the Court has reviewed. Class Counsel's request for attorneys' fees and expenses are reasonable and hereby

approved.

11. Plaintiffs further request class representative service awards in the amount of \$2,500.00 for each of the three class representatives. The class representatives adequately represented the Class's interests in this matter by staying informed throughout the litigation and thoroughly reviewing and approving the terms of the Settlement. The requested service awards are reasonable. Accordingly, the Court approves the service awards to Plaintiffs James Jones, Derishia Smith, and Tommie Shearer in the total amount of \$7,500.00, or \$2,500.00 to each class representative.

12. The notices to the Class appropriately advised all potential Settlement Class Members of their right to object to the Settlement or opt-out of the Settlement. All members of the Settlement Class had the opportunity to object to the Settlement and the absolute right to opt-out of the Settlement. The fact that there was only one objection to the Settlement and only 15 requests to opt out of the Settlement supports a finding that the Settlement, including the administration of the Settlement, was reasonable. The updated list of 15 opt-outs attached as an exhibit to the Supplemental Tran Affidavit are accepted by the Court, and those 15 individuals are not Settlement Class Members covered by this Settlement. As to the one objection filed, the Court has reviewed and evaluated the objection as well as Class Counsel's response. The Court overrules the objection for the reasons contained in Class Counsel's response as well as those discussed during the Fairness Hearing.

13. All provisions and terms of the Settlement Agreement are hereby finally approved in all respects. The parties to the Settlement Agreement are hereby directed to fully implement the Settlement Agreement in accordance with its terms.

14. All provisions of the Settlement Agreement are hereby incorporated into this Order

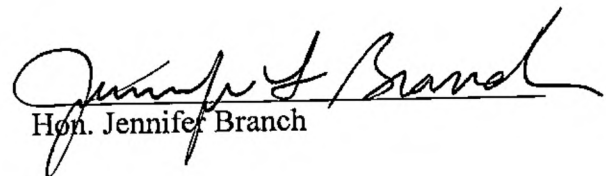
as if fully rewritten herein as is the updated list of opt outs attached to the Supplemental Tran Affidavit. To the extent there are terms in this Order that conflict with the terms of the Settlement Agreement in any manner, the Settlement Agreement shall control.

15. Without in any way affecting the finality of this Final Order and Judgment, this Court shall retain continuing jurisdiction over this Litigation for purposes of implementing, administering, interpreting, and enforcing the Settlement Agreement as well as any other matters related or ancillary to any of the foregoing.

16. Class Counsel, working in conjunction with the Settlement Administrator, shall file with the Court, a final affidavit from the Settlement Administrator containing the following information: (1) the number of claims filed; (2) the number of claims determined to be valid; (3) the total payment amounts paid to claimants for each category of settlement benefits described in paragraph 4 above; and (4) the amount of residual funds paid to the Court-approved Cy Pres recipient, the Hoxworth Blood Center.

17. There is no just reason for delay, and this is a final, appealable order as of when it is stamped as received for filing.

11/30/22
Date


Hon. Jennifer Branch

