



AlaFile E-Notice

01-CV-2023-904352.00

Judge: JAVAN PATTON CRAYTON

To: O'DONOHUE SARAH
ALSTON & BIRD LLP
1201 WEST PEACHTREE STREET
ATLANTA, GA, 30309-0000

NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

SAMUEL LEE ET AL V. BAPTIST HEALTH CENTERS, LLC, D/B/A CARDIOVASCULAR
01-CV-2023-904352.00

The following matter was FILED on 12/23/2025 4:15:02 PM

C001 LEE SAMUEL

C002 YATES CHRISTOPHER

C004 JONES MICAH

C005 ELLIOTT MELVIN

C006 CAREW SUSAN

C007 TOLLESON JIMMY

PLAINTIFFS' UNOPPOSED MOTION & MEMO IN SUPPORT OF PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEM

[Filer: MANN JONATHAN STEPHEN]

Notice Date: 12/23/2025 4:15:02 PM

JACQUELINE ANDERSON SMITH
CIRCUIT COURT CLERK
JEFFERSON COUNTY, ALABAMA
716 RICHARD ARRINGTON, JR BLVD
BIRMINGHAM, AL, 35203

205-325-5355
jackie.smith@alacourt.gov



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01-CV-2023-904352.00

CIRCUIT COURT OF

JEFFERSON COUNTY, ALABAMA

JACQUELINE ANDERSON SMITH, CLERK

STATE OF ALABAMA

Revised 3/5/08

Cas

Unified Judicial System

01-JEFFERSON

 District Court
 Circuit Court

CV21

SAMUEL LEE ET AL V. BAPTIST HEALTH CENTERS, LLC, D/B/A CARDIOVASCULAR

CIVIL MOTION COVER SHEET

Name of Filing Party: C001 - LEE SAMUEL
 C002 - YATES CHRISTOPHER
 C004 - JONES MICAH
 C005 - ELLIOTT MELVIN
 C006 - CAREW SUSAN
 C007 - TOLLESON JIMMY

Name, Address, and Telephone No. of Attorney or Party. If Not Represented.

JONATHAN S. MANN
 2001 PARK PLACE N., STE. 1100
 BIRMINGHAM, AL 35203
 Attorney Bar No.: MAN057

 Oral Arguments Requested
TYPE OF MOTION**Motions Requiring Fee**

- Default Judgment (\$50.00)
 Joinder in Other Party's Dispositive Motion
 (i.e. Summary Judgment, Judgment on the Pleadings,
 or other Dispositive Motion not pursuant to Rule 12(b))
 (\$50.00)
- Judgment on the Pleadings (\$50.00)
- Motion to Dismiss, or in the Alternative
 Summary Judgment (\$50.00)
- Renewed Dispositive Motion (Summary
 Judgment, Judgment on the Pleadings, or other
 Dispositive Motion not pursuant to Rule 12(b)) (\$50.00)
- Summary Judgment pursuant to Rule 56 (\$50.00)
- Motion to Intervene (\$297.00)
- Other _____
 pursuant to Rule _____ (\$50.00)

*Motion fees are enumerated in §12-19-71(a). Fees
 pursuant to Local Act are not included. Please contact the
 Clerk of the Court regarding applicable local fees.

Local Court Costs \$ 0 _____

Motions Not Requiring Fee

- Add Party
- Amend
- Change of Venue/Transfer
- Compel
- Consolidation
- Continue
- Deposition
- Designate a Mediator
- Judgment as a Matter of Law (during Trial)
- Disburse Funds
- Extension of Time
- In Limine
- Joinder
- More Definite Statement
- Motion to Dismiss pursuant to Rule 12(b)
- New Trial
- Objection of Exemptions Claimed
- Pendente Lite
- Plaintiff's Motion to Dismiss
- Preliminary Injunction
- Protective Order
- Quash
- Release from Stay of Execution
- Sanctions
- Sever
- Special Practice in Alabama
- Stay
- Strike
- Supplement to Pending Motion
- Vacate or Modify
- Withdraw
- Other PLAINIFFS' UNOPPOSED MOTION &
 MEMO IN SUPPORT OF PRELIMINARY
 APPROVAL OF CLASS ACTION
 SETTLEM

pursuant to Rule N/A (Subject to Filing Fee)

Check here if you have filed or are filing contemporaneously with this motion an Affidavit of Substantial Hardship or if you are filing on behalf of an agency or department of the State, county, or municipal government. (Pursuant to §6-5-1 Code of Alabama (1975), governmental entities are exempt from prepayment of filing fees)

Date:
12/23/2025 4:13:31 PM

Signature of Attorney or Party
/s/ JONATHAN S. MANN

*This Cover Sheet must be completed and submitted to the Clerk of Court upon the filing of any motion. Each motion should contain a separate Cover Sheet.
**Motions titled 'Motion to Dismiss' that are not pursuant to Rule 12(b) and are in fact Motions for Summary Judgments are subject to filing fee.

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
 BIRMINGHAM DIVISION**

**SAMUEL LEE, CHRISTOPHER YATES,)
 MICAH JONES, MELVIN ELLIOTT,)
 SUSAN CAREW, and JIMMY TOLLESON,)
 individually and on behalf of all others)
 similarly situated,)**

Plaintiffs,

Case No.: 01-CV-2023-904352.00

v.

**BAPTIST HEALTH CENTERS, LLC,)
 d/b/a CARDIOVASCULAR ASSOCIATES,)**

Defendant.

**PLAINTIFFS’ UNOPPOSED MOTION & MEMORANDUM IN SUPPORT OF
 PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

Plaintiffs Samuel Lee, Christopher Yates, Micah Jones, Melvin Elliott, Susan Carew, and Jimmy Tolleson, individually (“Named Plaintiffs” or “Plaintiffs”), and on behalf of the proposed Settlement Class of similarly situated individuals (hereinafter, the “Settlement Class,” defined below), respectfully submit this Unopposed Motion for Preliminary Approval of Class Action Settlement and Memorandum of Law in support thereof. As set forth below and in the proposed Preliminary Approval Order, Plaintiffs respectfully request that this Court enter an Order:

- (1) granting Preliminary Approval¹ of the proposed Settlement Agreement and Release;
- (2) conditionally certifying the Settlement Class;

¹ Capitalized terms not herein defined shall have the meaning ascribed to them in Settlement Agreement, which is attached hereto as **Exhibit 1**.

- (3) appointing PITTMAN, DUTTON, HELLUMS, BRADLEY, & MANN, P.C., CORY WATSON, P.C., and MIGLIACCIO & RATHOD LLP as Class Counsel;
- (4) approving the proposed Notice Program and directing that it be implemented; and
- (5) appointing EisnerAmper (“EAG”) to serve as the Settlement Administrator.

This Memorandum describes in detail the reasons why preliminary approval is in the best interests of the class and is consistent with Alabama Rule of Civil Procedure 23.

INTRODUCTION

The Named Plaintiffs and Defendant (collectively referred to herein as the “Parties”) in this putative class action have reached a proposed settlement. The settlement provides for the creation of a \$4,850,000.00 non-reversionary common fund, from which Settlement Class Members will be able to make a claim for monetary reimbursements for up to \$5,000 of reimbursement of Documented Monetary Losses; for three (3) years of Credit and Medical Data Monitoring and at least \$1,000,000 of fraud/identity theft insurance; and for a Pro Rata Cash Payment, with no capped maximum amount (*see* Settlement Agreement and Release (“Settlement Agreement”), attached hereto as Ex. 1, ¶¶ 52, 60(a)-(c)). If approved, the Settlement would bring certainty and closure—and significant and valuable relief for Settlement Class Members—to what otherwise would likely be contentious and costly litigation over CVA’s (Defendant Baptist Health Centers, LLC, d/b/a Cardiovascular Associates) liability arising from its Data Security Incident. CVA disputes liability and denies any wrongdoing.

As discussed in more detail below, the proposed settlement meets all the requirements of Ala. R. Civ. P. 23, as well as all standards for the evaluation of fairness of a proposed settlement.²

² Rule 23 of the Alabama Rules of Civil Procedure is modeled after Rule 23 of the Federal Rules of Civil Procedure and, therefore, federal decisions interpreting Rule 23 are authoritative. *Reynolds Metals Co. v. Hill*, 825 So. 2d 100, 104 n. 1 (Ala. 2002) (citing *Cutler v. Orkin Exterminating Co.*, 770 So. 2d 67 (Ala. 2000)).

See, e.g., In re Liberty Nat'l Ins. Cases, No. 02-cv-2741, 2006 WL 8436814, at *9 (N.D. Ala. Mar. 31, 2006). The terms of the Settlement, which include a Settlement Fund providing Settlement Class Members the ability to receive cash compensation, meet and exceed the applicable standards of fairness and provide relief that is substantially similar to other settlements that have been approved throughout the country, and here in Jefferson County. Accordingly, the Court should preliminarily approve the Settlement so that Settlement Class Members can receive Notice of their rights, and the claims administration process may begin.

I. THE LITIGATION

A. The Data Security Incident

According to Defendant, an unauthorized third party accessed certain CVA systems that contained Personal Information and exfiltrated 1.18 terabytes of data from the network between November 28, 2022, and December 5, 2022 (the “Data Security Incident”). After the Data Security Incident, Defendant determined that the data accessed by the unauthorized actor may have contained Plaintiffs’ and Settlement Class Members’ personally identifiable information (“PII”) and/or protected health information (“PHI”), including names, Social Security numbers, dates of birth, contact information, passport and driver’s license numbers, credit and debit card information, demographic information, medical information, and/or health insurance information.

In total, Defendant identified approximately 433,348 persons whose Personal Information may have been accessed by an unauthorized third party as a result of the Data Security Incident. On February 3, 2023, and March 17, 2023, CVA notified its patients and other potentially impacted individuals of the Data Security Incident. Plaintiffs contend that because of the Data Security Incident, Plaintiffs and Settlement Class Members have and will continue to face a heightened and imminent risk of fraud and identity theft.

B. Procedural History

Several class action lawsuits were filed against Defendant CVA, each seeking to redress the harms caused by the Data Security Incident. All the actions filed focused on the same factual predicate—the Data Security Incident—and asserted nearly identical claims for relief. A since-dismissed defendant, Tenet Healthcare Corporation, filed a Notice of Removal on October 19, 2023, removing the case from the Circuit Court of Jefferson County, Alabama, Birmingham Division, to the United States District Court for the Northern District of Alabama, Southern Division. That case was voluntarily dismissed by Plaintiffs on November 17, 2023.

On December 1, 2023, the Named Plaintiffs to this action filed their Class Action Complaint in the Circuit Court of Jefferson County, Alabama, Birmingham Division, against Defendant only, and asserted claims for: (i) negligence (ii) wantonness; (iii) negligence *per se*; (iv) breach of express/implied contract; (v) breach of fiduciary duty; (vi) breach of confidence; and (vii) unjust enrichment. On January 3, 2024, CVA filed a Motion to Dismiss, and the Plaintiffs filed an Opposition to Defendant’s Motion to Dismiss on February 16, 2024. On February 15, 2024, the Court granted Plaintiffs’ Motion to Appoint Interim Co-Lead Class Counsel, appointing Pittman, Dutton, Hellums, Bradley & Mann, P.C. and Cory Watson, P.C. as interim co-lead class counsel. After the Court heard oral argument on Defendant’s Motion to Dismiss on March 5, 2024, the Court granted in part and denied in part Defendant’s Motion to Dismiss, allowing Plaintiffs’ claims for negligence, wantonness, and negligence *per se* to proceed.

In the months following the Court’s ruling on the Motion to Dismiss, the Parties conducted written discovery, motion practice, meet and confer communications, document production, and document review of hundreds of thousands of pages of documents. On November 20, 2024, counsel for the Parties participated in a full day mediation with mediator J. Allen Schrieber of

Schreiber ADR in Birmingham, Alabama, but the Parties were unable to reach a resolution. Over the course of dozens of meet and confer communications, Plaintiffs' counsel continued their diligent and significant discovery efforts while simultaneously working at arm's length with Defendant to negotiate a resolution. On July 3 and 16, 2025, Plaintiffs sent deposition notices to Defendant. The settlement negotiations were hard fought on each side, but the Parties were eventually able to reach an agreement in principle on July 29, 2025, before any depositions took place.

After the Parties reached the agreement in principle on all material terms of substantive relief for the Settlement Class, they began negotiating the amount of attorneys' fees and costs that Defendant would agree to pay to Class Counsel (subject to Court approval) and the amount of Service Awards Defendant would pay to the Class Representatives (also subject to Court approval). At all times, the issue of attorneys' fees, costs, and Class Representative Service Awards was negotiated separately from the Settlement relief to Settlement Class Members. Like the other negotiations, these negotiations were conducted at arm's length.

Following negotiations, the Parties ultimately reached an agreement in principle on all issues related to the settlement and began drafting, exchanging, and editing the detailed Settlement Agreement, including its accompanying exhibits, notices, and claim form. Plaintiffs' counsel sought bids from numerous claims administrators, and the Parties ultimately selected a qualified and cost-effective company after an extensive bidding process. The time and effort spent by all Parties to this litigation demonstrates the rigor, intensity, and thoroughness of the mediation efforts, as well as the Parties' commitment to working constructively toward a resolution. The proposed Settlement addresses the reasonable objectives of the litigation. The exchange of information throughout the discovery and settlement process allowed the Parties to sufficiently

understand the relative strengths and weaknesses of their positions when fashioning the proposed Settlement.

II. THE PROPOSED SETTLEMENT

The Settlement Class.

The proposed Settlement would establish a Settlement Class defined as follows:

All persons residing in the United States whose Personal Information was accessed by an unauthorized third party as a result of the Data Security Incident discovered by CVA on or about December 5, 2022.

The proposed Settlement Class specifically excludes from the Settlement Class: Defendant, Defendant's current or former parents, subsidiaries, divisions, or affiliates, or their respective successors or predecessors, or any entity in which Defendant or its parents has a controlling interest, or any of their current or former officers and directors; all judges presiding over the Action and members of their families; persons who properly execute and file a timely Request for Exclusion from the Settlement Class; persons whose claims in this matter have been finally adjudicated on the merits or otherwise released; Plaintiffs' counsel and Defendant's counsel; and the legal representatives, successors, and assigns of any such excluded persons.

Settlement Benefits to the Class

The Settlement negotiated on behalf of the Settlement Class provides for monetary relief to be paid by CVA to eligible claimants of a Settlement Class that includes approximately 433,348 persons whose Personal Information was may have been accessed by an unauthorized third party as a result of the Data Security Incident and who were provided notice thereof. Defendant will fund a \$4,850,000.00 non-reversionary common fund to provide each claimant with (1) reimbursement for Documented Monetary Losses up to \$5,000; (2) Credit and Medical Data Monitoring and fraud/identity theft insurance; and (3) a Pro Rata Cash Payment from the amount remaining in the Settlement Fund after payment of all (i) Administration and Notice Costs; (ii)

Taxes and Tax-Related Expenses; (iii) Approved Claims for Documented Monetary Losses; (iv) costs of Credit and Medical Data Monitoring; (v) Fee Award and Costs; and (vi) Service Awards. Specifically, Settlement Class Members may be eligible to receive the following Settlement benefits:

Reimbursement of Documented Monetary Losses

The Parties will create a Claims process through which all Settlement Class Members may submit a Claim Form for reimbursement of Documented Monetary Losses fairly traceable to the Data Security Incident, up to \$5,000 per individual. Documented Monetary Losses may include, without limitation, 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 the Data Security Incident through the date of Claim submission; and miscellaneous expenses such as notary, fax, postage, copying, mileage, and long-distance telephone charges. Settlement Class Members with Documented Monetary Losses must submit documentation supporting their claims. This can include receipts or other documentation not "self-prepared" by the claimant that documents the costs incurred. "Self-prepared" documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but can be considered to add clarity or support to other submitted documentation.

Credit and Medical Data Monitoring

All Settlement Class Members may submit a claim for three (3) years of Credit and Medical Data Monitoring (such as CyEx Medical Shield Ultra) and at least \$1,000,000 of fraud/identity theft insurance. Settlement Class Members may use their code to enroll for a period of 12 months (meaning that a Settlement Class Member could enroll up to the end of the first year and have

coverage for the full three (3) years). Such coverage and flexibility in enrollment will provide protection for Settlement Class Members against future identity theft. The three-year period will commence when Settlement Class Members use their codes to activate their Credit and Medical Data Monitoring.

Pro Rata Cash Payment

Settlement Class Members may also submit a Claim for a Pro Rata Cash Payment. The amount of this benefit shall be determined pro rata based on the amount remaining in the Settlement Fund following payment of the Administration and Notice Costs, Taxes and Tax-Related Expenses, Approved Claims for Documented Monetary Losses, costs of Credit and Medical Data Monitoring, Fee Award and Costs, and Service Awards. There will be no maximum payment amount for Pro Rata Cash Payments.

Business Practices Changes

In addition to the monetary benefits available to Settlement Class Members described above, Plaintiffs have also received assurances that Defendant has undertaken certain reasonable steps to further secure its systems and environments, and Defendant will prepare a confidential declaration detailing same. None of the costs associated with the development and implementation of these enhanced security procedures have been or will be paid by Plaintiffs and no portion of the Settlement Fund is to be used for this purpose.

Notice

The Parties have selected EAG to be the Settlement Administrator, subject to Court approval. EAG is a company that is experienced in class notice and in administration of class action claims generally and specifically those of the type provided for and made in data security incident litigation.

Within seven (7) days after the date of the Preliminary Approval Order, CVA shall provide the Settlement Class List to the Settlement Administrator. Within twenty-three (23) days after receipt of Settlement Class List, the Settlement Administrator shall disseminate Notice to the members of the Settlement Class. Notice shall be disseminated via summary postcard to Settlement Class Members identified on the Settlement Class List via U.S. mail. Additionally, where any Notices are returned, the Settlement Administrator will perform skip tracing and re-mail the Notice to any valid new addresses found. While only the Short Form Notice will be mailed to Settlement Class Members, a Long Form Notice will be made available on the Settlement Website. (*See* Exhs. A, B, and C to the Settlement Agreement (the Claim Form, Long Form Notice, and Short Form Notice)). The Notice Deadline or Notice Date is the date upon which Notice is initially disseminated to the Settlement Class by the Settlement Administrator, which shall be no later than thirty (30) days after the Court has entered the Preliminary Approval Order.

Claims

Settlement Class Members may submit Claim Forms to the Settlement Administrator via return postcard, electronically via the Settlement Website, or otherwise physically by mail to the Settlement Administrator. The postmark and/or online submission deadline for the Claim Form is 90 days after the Notice Date (“Claims Deadline”). All actual costs associated with or arising from claims administration, including any additional costs associated with a claims referee, and costs of providing Notice of the Settlement to the Settlement Class Members shall be paid for from the Settlement Fund.

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

Settlement Administrator finds a Claim Form incomplete, the Settlement Class Member will be provided with notice of the deficiencies and time to cure the Claim.

Opt-Out and Objection Procedure

Settlement Class Members will have an opportunity to exclude themselves from the Settlement or object to its approval. The timeline for opting out or objecting to the Settlement is designed to allow Settlement Class Members sufficient time to receive and review the Notice and all relevant materials before determining a course of action. The procedures and deadlines for filing opt-out requests and objections (*see* Exhs. B and C to the Settlement Agreement) will be referenced in the Short Form Notice and conspicuously listed in the Long Form Notice and on the Settlement Website. The notices will also inform Settlement Class Members that the Final Approval Hearing will be their opportunity to appear and have their objections heard and that Settlement Class Members will be bound by the Settlement Agreement unless they timely exercise their right to exclusion.

Release

In exchange for the relief described above, the Settlement Class Members who do not exclude themselves will provide Defendant and its affiliates a full release of all claims related to the Data Security Incident, which includes a release of all claims brought by Plaintiffs, and any other statutory or common law claims that could have been asserted based upon the same conduct. (*See* Ex. 1, § XI).

As explained in more detail below, the proposed Settlement should be preliminarily approved as it meets all the requirements for certification of a Settlement Class under Rules 23(b)(2) and (3) of the Alabama Rules of Civil Procedure; the proposed Notice Program satisfies

the requirements of Alabama Rule of Civil Procedure 23(c)(2); and the Settlement is fair, reasonable, and adequate.

III. THE PROPOSED SETTLEMENT CLASS MEETS THE REQUIREMENTS OF ALA. R. CIV. P. 23 AND SHOULD BE PRELIMINARILY CERTIFIED

For settlement purposes only, the Parties have agreed that the Court should make preliminary findings and enter an order granting provisional certification of the Settlement Class and appoint Plaintiffs and their counsel to represent the Settlement Class. “The validity of use of a temporary settlement class is not usually questioned.” Conte & Newberg, 4 *Newberg on Class Actions*, §11.25 (4th Ed. 2002). The *Manual for Complex Litigation* explains the benefits of settlement classes:

Settlement classes – cases certified as class actions solely for settlement – can provide significant benefits to class members and enable the defendants to achieve final resolution of multiple suits. Settlement classes also permit defendants to settle while preserving the right to contest the propriety and scope of the class allegations if the settlement is not approved[.] . . . An early settlement produces certainty for the plaintiffs and defendants and greatly reduces litigation expenses.

Manual for Complex Litigation (Fourth) § 21.612. Prior to granting preliminary approval of a class action settlement, a court should determine that the proposed settlement class is a proper class for settlement purposes. *Manual for Complex Litigation* (Fourth) § 21.632; *Amchem Prods. Inc. v. Windsor*, 521 U.S. 591, 620 (1997). A class may be certified under Ala. R. Civ. P. 23 if the following four prerequisites of Rule 23(a) are satisfied—(1) numerosity, (2) commonality, (3) typicality, and (4) adequacy of representation—as well as at least one of the three subdivisions of Rule 23(b). Here, the Settlement Class satisfies all the requirements of Rule 23 and should be conditionally certified.

Numerosity

Numerosity is met where “the class is so numerous that joinder of all members is impracticable.” Ala. R. Civ. P. 23(a)(1); *Cheminova Am. Corp. v. Corker*, 779 So. 2d 1175, 1179

(Ala. 2000). “The numerosity requirement imposes no absolute minimum number” and “[t]he court can accept commonsense assumptions in order to support a finding of numerosity[.]” *Cheminova*, 779 So. 2d at 1179. Where it is “clear” that the class numbers are in the “thousands” and the defendant does not “actively contest the numerosity requirement,” the numerosity requirement is satisfied. *Id.*; *CVS Caremark Corp. v. Lauriello*, 175 So. 3d 596, 601 (Ala. 2014).

Here, it is undisputed that the proposed Settlement Class encompasses 433,348 individuals nationwide. This Settlement Class is sufficiently numerous such that joinder would be impracticable, given the number of individuals in the Settlement Class, the geographic disbursement of Settlement Class Members throughout the country, and that absent a class action few members of the Settlement Class could afford to bring an individual lawsuit over the amounts at issue since each individual member’s claim is relatively small.

Commonality

Commonality, the second requirement for class certification under Ala. R. Civ. P. 23(a), is met where there are “questions of law or fact common to the class.” Ala. R. Civ. P. 23(a)(2). The commonality requirement can be summarized as follows:

Rule 23(a)(2) requires that there are questions of law or fact common to the class. Yet not every question of law or fact must be common to every member of the class. The requirement is met if the questions linking the class members are substantially related to the resolution of the litigation even though the individuals are not identically situated. Identical questions are not necessary and factual discrepancies are not fatal to certification.

Coleman v. Cannon Oil Co., 141 F.R.D. 516, 521 (M.D. Ala. 1992) (internal citations omitted). “Commonality may exist where the party opposing the class has engaged in a course of conduct that affects all class members and gives rise to a plaintiff’s claim.” *Dujanovic v. Mortgage Am., Inc.*, 185 F.R.D. 660, 667 (N.D. Ala. 1999); *see also Braxton v. Farmer’s Ins. Group*, 209 F.R.D. 654, 658 (N.D. Ala. 2002).

Other data breach class actions here in Alabama and within Jefferson County where the class members' claims focused on a similar course of conduct by the defendant have been found to have common legal and factual issues.³ Similarly, here, all members of the proposed Settlement Class share common claims arising out of the same standardized conduct: exposure of Personal Information including but not limited to full names, Social Security numbers, dates of birth, contact information, passport and driver's license numbers, credit and debit card information, demographic information, medical information, and/or health insurance information, as well as out-of-pocket losses and lost time. Proving liability for their claims would require the resolution of the same central factual and legal issues, including whether CVA's actions harmed the Settlement Class Members and exponentially increased their risk of future harm, and whether that conduct violated the law. Thus, the common questions resulting from CVA's alleged conduct can be answered on a class-wide basis based on common evidence maintained by Defendant. Accordingly, this factor is satisfied.

Typicality

The third element of maintaining a class action is that the claims of the class representatives are typical of the claims of each member of the class. Ala. R. Civ. P. 23(a)(3). For a plaintiff to meet Rule 23(a)'s requirement of typicality her claims must "have the same essential characteristics as the class at large." *Cheminova*, 779 So. 2d at 1180 (citing *Coleman*, 141 F.R.D. at 527). However, the "class members' claims need not be identical to satisfy the typicality requirement; rather, there need only exist 'a sufficient nexus between the legal claims of the named

³ See, e.g., *Family Medicine Pharmacy, LLC v. Trxade Group, LLC*, No. 15-0590-KD-B, 2016 WL 6573981 (S.D. Ala. Nov. 4, 2016); *Limbaugh, et al. v. Norwood Clinic, Inc.*, Case No. 01-cv-2022-900851 (Cir. Ct. of Jefferson Cnty, Ala.); *Kemp, et al. v. NorthStar Emergency Medical Services, Inc.*, Case No. 63-cv-2023-900249.00 (Cir. Ct. of Tuscaloosa Cnty, Ala.); and *Hufstetler, et al. v. Upstream Rehabilitation Inc., et al.*, Case No. 01-CV-2024-902563.00 (Cir. Ct. of Jefferson Cnty, Ala.).

class representatives and those of individual class members[.]” *Manno*, 289 F.R.D. at 686; *see also Wright v. Circuit City Stores, Inc.*, 201 F.R.D. 526, 543 (N.D. Ala. 2001) (“particular factual differences, differences in the amount of damages claimed or even the availability of certain defenses against a class representative may not render his or her claims atypical”) (citations omitted).

Here, Plaintiffs’ claims are typical to that of the Settlement Class Members. Plaintiffs allege that they entrusted CVA with their Personal Information, had their Personal Information accessed by an unauthorized third party, lost time due to the Data Security Incident, and/or incurred out-of-pocket losses. Consequently, Plaintiffs’ claims satisfy the typicality requirement of Rule 23(a)(3).

Adequacy of Representation

Under Rule 23(a)(4), Plaintiffs must also establish that they can “fairly and adequately protect the interests of the class.” Ala. R. Civ. P. 23(a)(4). This requirement is satisfied where “the named Plaintiffs have [no] interests antagonistic to those of the rest of the class” and “Plaintiffs’ counsel are qualified, experienced and generally able to conduct the proposed litigation.” *Cheminova*, 779 So. 2d at 1181 (citing *Appleyard v. Wallace*, 754 F.2d 955, 958 (11th Cir. 1985)).

Courts have readily found that a proposed class representative was adequate where the same actions of defendant resulted in common law claims of the named plaintiffs and members of the class.⁴ Here, Plaintiffs’ interests are entirely representative of and consistent with the interests of the proposed Settlement Class—all Plaintiffs have allegedly had their Personal Information

⁴ *See, e.g., Family Medicine Pharmacy, LLC v. Trxade Group, LLC*, No. 15-0590-KD-B, 2016 WL 6573981 (S.D. Ala. Nov. 4, 2016); *Limbaugh, et al. v. Norwood Clinic, Inc.*, Case No. 01-cv-2022-900851 (Cir. Ct. of Jefferson Cnty, Ala.); *Kemp, et al. v. NorthStar Emergency Medical Services, Inc.*, Case No. 63-cv-2023-900249.00 (Cir. Ct. of Tuscaloosa Cnty, Ala.); and *Hufstetler, et al. v. Upstream Rehabilitation Inc., et al.*, Case No. 01-CV-2024-902563.00 (Cir. Ct. of Jefferson Cnty, Ala.)

accessed without authorization, and their pursuit of this matter has demonstrated that they have been, and will remain, zealous advocates for the Settlement Class. Thus, Plaintiffs have the same interests as the Settlement Class, with the primary interest of obtaining relief from CVA for claimed violations of the common law and Alabama's Data Breach Notification Act of 2018, Ala. Code § 8-38-1.

Similarly, proposed Class Counsel have regularly engaged in major complex litigation and have extensive experience in consumer class actions, including data breach class actions. (*See* Declaration of Jonathan S. Mann in Support of Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement, attached hereto as Exhibit 2 ("Mann Dec.")). Plaintiffs' counsel and their firms have recently been appointed as class counsel in several complex consumer class actions, including class action settlements involving other data security incidents here in Alabama and within Jefferson County. *See, e.g., Limbaugh, et al. v. Norwood Clinic, Inc.*, Case No. 01-cv-2022-900851 (Cir. Ct. of Jefferson Cnty, Ala.); *Kemp, et al. v. NorthStar Emergency Medical Services, Inc.*, Case No. 63-cv-2023-900249.00 (Cir. Ct. of Tuscaloosa Cnty, Ala.); and *Hufstetler, et al. v. Upstream Rehabilitation Inc., et al.*, Case No. 01-CV-2024-902563.00 (Cir. Ct. of Jefferson Cnty, Ala.). Accordingly, Plaintiffs' counsel will adequately represent the Settlement Class.

The Settlement Class Meets the Requirements of Rule 23(b)(3)

Plaintiffs must also show that the proposed Settlement Class meets one of the requirements of Ala. R. Civ. P. 23(b). Plaintiffs seek certification of the proposed Settlement Class pursuant to Section 23(b)(3), which requires establishing that common questions of law or fact predominate over individual questions, and that a class action is superior to other available methods of

adjudication. Ala. R. Civ. P. 23(b)(2) and (3); *Cheminova*, 779 So. 2d at 1181.

Under Ala. R. Civ. P. 23(b)(3), here, as other courts have found when looking at similar cases brought under Alabama common and statutory law, the common issues identified above outweigh any individualized issues in the litigation. *See, e.g., Family Medicine Pharmacy, LLC v. Trxade Group, LLC*, No. 15-0590-KD-B, 2016 WL 6573981 (S.D. Ala. Nov. 4, 2016); *Cotter v. Checkers Drive-In Restaurants, Inc.*, 2021 U.S. Dist. LEXIS 160592, *18, 2021 WL 3773414 (M.D. Fla. 2021); *In re Citrix Data Security Incident Litig.*, 2021 U.S. Dist. LEXIS 112272, *5-6, 2021 WL 2410651 (S.D. Fla. 2021); *Wyeth, Inc. v. Blue Cross & Blue Shield of Alabama*, 42 So. 3d 1216, 1221-22 (Ala. 2010); *Nat'l Sec. Fire & Cas. Co. v. DeWitt*, 85 So. 3d 355, 370, 2011 Ala. LEXIS 196, *37, 2011 WL 5607802 (Ala. 2011). Here, all the proposed Settlement Class Members had their Personal Information potentially accessed without authorization. The duties owed by CVA are common among all Settlement Class Members. Whether CVA breached its duties is a common question across all Settlement Class Members. Accordingly, there are no individualized issues that may predominate.

Further, a class action is superior to Settlement Class Members bringing individual actions because absent a class action, many members of the Settlement Class would remain unaware of their legal claims against CVA, and most members of the Settlement Class would find the cost of litigating their claims to be prohibitive. It is thus unlikely that individuals would invest the time and expense necessary to seek relief through individual litigation. In addition, as stated by the United States Supreme Court, a class action is the superior method of resolving large scale claims if it will “achieve economies of time, effort, and expense, and promote . . . uniformity of decision as to persons similarly situated, without sacrificing procedural fairness or bringing about other undesirable results.” *Amchem* 521 U.S. at 615. Here, because all the Settlement Class Members’

claims involve the same course of conduct by CVA and are subject to resolution based on the determination of the same common legal and factual issues, it would also be most efficient for their claims to be adjudicated on a class basis. Nor is there any concern regarding the “difficulties in managing a class action” since “[t]he proposed settlement negates any potential problems for managing a class action.” *Family Medicine Pharmacy, LLC v. Trxade Group, LLC*, No. 15-0590-KD-B, 2016 WL 6573981, at *7 (S.D. Ala. Nov. 4, 2016) (citing *Amchem*, 521 U.S. at 620) (“Confronted with a request for settlement-only class certification, a district court need not inquire whether the case, if tried, would present intractable management problems[.]”).

Because the proposed Settlement Class satisfies all the requirements under Ala. R. Civ. P. 23(a) and 23(b)(3), Plaintiffs respectfully request that the Court grant preliminary class certification of the Settlement Class.

The Proposed Class Notice Satisfies the Requirements of Rules 23(c)(2) and 23(e)

Under Ala. R. Civ. P. 23(c)(2), where, as here, a class is certified pursuant to Rule 23(b)(3), the Court is directed to provide class members who “can be identified through reasonable effort” notice advising them that:

(A) the court will exclude the member from the class if the member so requests by a specified date; (B) the judgment, whether favorable or not, will include all members who do not request exclusion and (C) any member who does not request exclusion may, if the member desires, enter an appearance through counsel.

Rule 23(e) further specifies that “notice of [any] proposed dismissal or compromise shall be given to all members of the class in such manner as the court directs.” Ala. R. Civ. P. 23(e). In accordance with Ala. R. Civ. P. 23(c)(2) and 23(e), the Parties request that this Court appoint EAG as the Settlement Administrator and direct that Notice be provided to Settlement Class Members in accordance with the “Notice Program” in the attached Settlement Agreement. (*See Ex. 1*, § VIII).

The proposed Notice in this case satisfies the requirements of Ala. R. Civ. P. 23(c)(2) and 23(e). As set forth in detail in Section II, *supra*, the Settlement Agreement contemplates a multi-part Notice Program designed to reach as many potential Settlement Class Members as possible. First, as noted above, direct Notice of the Settlement will be sent via U.S. Mail to all Settlement Class Members. In addition, to the extent any Settlement Class Members do not receive direct Notice, the Settlement Agreement also provides that the Settlement Administrator will establish a website and update the website throughout the claim period, with the Short Form Notice, Long Form Notice, and Claim Form, as well as the Settlement Agreement. The proposed Short and Long Form Notices, and Claim Form, are attached as Exhibits A, B, and C to the Settlement Agreement. These notices all provide Settlement Class Members information regarding: a description of the Settlement Class; a description of the proposed Settlement; the procedures and deadlines for filing objections or seeking exclusion from the Settlement; the consequences of opting out or remaining in the Settlement Class; that Class Counsel will apply for attorneys' fees in the amount of one-third of the Settlement Fund, expenses in amount of no more than \$25,000, and Service Awards for the Class Representatives in the amount of \$3,500 each; and how to obtain additional information about the case. The proposed Settlement Administrator also believes the proposed Notice Program is adequate and meets all requirements and, in support of a future motion for final approval, will submit a declaration confirming the Notice Program has been implemented and effective. Accordingly, Plaintiffs request that, pursuant to Rules 23(c)(2) and 23(e), this Court approve and direct Notice in the manner set forth in the proposed Notice Program.

The Proposed Settlement is Fair, Reasonable, and Adequate

In addition to evaluating whether a proposed settlement class meets the requirements for class certification, any settlement agreement purporting to resolve a class action must also obtain

“approval of the court.” Ala. R. Civ. P. 23(e). At the preliminary approval stage, the “Court must first make a preliminary evaluation of the fairness of the settlement before directing that notice be given to the settlement class.” *Family Med. Pharm., LLC v. Trxade Grp., Inc.*, 2016 WL 6573981, 2016 U.S. Dist. LEXIS 153272 at *19 (citing *Smith v. William Wrigley Jr. Co.*, 2010 U.S. Dist. LEXIS 67832, 2010 WL 2401149 at *2 (S.D. Fla. 2010)). However, critically, preliminary approval should be “granted unless a proposed settlement is obviously deficient.” *Id.* In determining whether a settlement should be preliminarily approved, courts typically evaluate whether the settlement is “fair, reasonable, and adequate.” See *Faught v. Am. Home Shield Corp.*, 668 F.3d 1233, 1240 (11th Cir. 2011) (citing *Holmes v. Cont’l Can Co.*, 706 F.2d 1144, 1147 (11th Cir. 1983)). The factors typically evaluated to determine whether a settlement is “fair, reasonable, and adequate” are

(1) the likelihood of success at trial; (2) the range of possible recovery; (3) the point on or below the range of possible recovery at which the settlement is fair, adequate, and reasonable; (4) the complexity, expense, and duration of the litigation; (5) the substance and amount of opposition to the settlement; (6) the stage of the proceedings at which the settlement was achieved; and (7) the financial ability of the defendant to withstand a greater judgment[.]

Adams v. Robertson, 676 So. 2d 1265, 1273 (Ala. 1995). Even a preliminary application of these factors here demonstrates that the proposed Settlement is “fair, reasonable, and adequate.”

As to the first factor, while Plaintiffs believe that they have a very good likelihood of prevailing on their claims, they are also aware that CVA has denied their material allegations and has raised several legal defenses, any of which, if successful, would result in the Plaintiffs and the proposed Settlement Class Members receiving no payment whatsoever. As examples, Plaintiffs believe CVA is prepared to argue that Plaintiffs have not suffered any actual injury, that no negligence, wantonness, or violation of statutory law occurred, and that Plaintiffs would not be able to certify any proposed class. Accordingly, there is significant risk that either Plaintiffs’

individual claims will not survive, or that Plaintiffs will ultimately be unsuccessful in certifying a class or at trial.

With respect to factors two and three, the proposed Settlement is fair, reasonable, and adequate and is in the best interest of Settlement Class Members because, upon submission of a valid Claim Form and approval of the Claim, Settlement Class Members will each be provided benefits that will compensate them even without documented monetary losses. This is especially the case in light of the defenses that have already been raised, and likely would have been raised, by Defendant, and the possibility that the Settlement Class Members would receive no benefit whatsoever in the absence of this Settlement. Accordingly, the proposed Settlement, which creates a non-reversionary \$4,850,000.00 Settlement Fund where each Settlement Class Member can submit a Claim for Documented Monetary Losses, Credit and Medical Data Monitoring, and a Pro Rata Cash Payment is fair, reasonable, and adequate, and warrants Court approval.

With respect to factor four, in the absence of settlement, it is certain that the expense, duration, and complexity of protracted litigation would be substantial. The Parties would have to undergo significant motion practice and discovery before contemplation of any trial on the merits. Such motion practice would likely include a motion for summary judgment on Plaintiffs' individual claims, as well as briefing on a motion for class certification brought by Plaintiffs. Further, given the complexity of the issues and the amount in controversy, the defeated party(ies) would likely appeal both any decision on the merits (at summary judgment and/or trial), as well as any decision on class certification. The Parties would each be required to retain experts. As such, the immediate and considerable relief provided to the Settlement Class under the Settlement Agreement weighs heavily in favor of its approval compared to the inherent risk and delay of continued litigation, trial, and appeal.

Addressing factor five, given the strength of this Settlement and the significant amount of the award that Settlement Class Members can claim, Plaintiffs expect little or no opposition to the Settlement by Settlement Class Members. While it is difficult to ascertain the reaction of the Settlement Class Members to the Settlement prior to the dissemination of Notice, Plaintiffs themselves have approved the Settlement and believe that it is a fair and reasonable settlement in light of the defenses raised by CVA and the potential risks involved with continued litigation.

With respect to the sixth factor, while this case is still early on procedurally, the Parties reached Settlement only after significant discovery efforts by the Parties. In addition, the Settlement Agreement was negotiated at arm's length in an adversarial setting between counsel who are experienced in all aspects of class action litigation with a supervising mediator experienced in complex litigation.

Finally, as to the seventh factor, CVA's ability to pay if Plaintiffs were to succeed at trial is not guaranteed. With more than 433,348 individuals in the Settlement Class, even a small award to each by a jury could result in a verdict against CVA amounting to tens or hundreds of millions of dollars.

In conclusion, the proposed Settlement is fair, reasonable, and adequate considering, among other things: (1) the relief available to Plaintiffs and Settlement Class Members under the terms of the Settlement Agreement; (2) the attendant risks and uncertainty of litigation, as well as the difficulties and delays inherent in litigation; and (3) the desirability of resolving the case promptly to provide effective relief to Plaintiffs and the Settlement Class.

IV. CONCLUSION

For the foregoing reasons, and on terms set forth in the proposed Preliminary Approval Order, Plaintiffs respectfully request that this Court issue an order: (1) appointing Plaintiffs Samuel

Lee, Christopher Yates, Micah Jones, Melvin Elliott, Susan Carew, and Jimmy Tolleson as Settlement Class Representatives; (2) appointing PITTMAN, DUTTON, HELLUMS, BRADLEY, & MANN, P.C., CORY WATSON, P.C., and MIGLIACCIO & RATHOD LLP as Class Counsel; (3) preliminarily approving the proposed Settlement Agreement; (4) approving the form and methods of the proposed Notice; (5) ordering the issuance of Notice; and (6) granting such further relief as the Court deems reasonable and just.

The Parties propose the following schedule leading to the hearing on Final Approval of the Settlement:

1. **Website Notice Posted by Settlement Administrator:** created and launched within thirty (30) days of the date of entry of the Preliminary Approval Order;
2. **Notice Date:** the Settlement Administrator shall complete all forms of Notice no later than thirty (30) days after the Court has entered the Preliminary Approval Order;
3. **Claims Deadline:** Claim Forms must be postmarked or electronically submitted to the Settlement Website within ninety (90) days after the Notice Date;
4. **Deadline for Opt-Outs / Objections:** Settlement Class Members must submit their Requests for Exclusion, pursuant to the terms and conditions herein, which shall be sixty (60) days following the Notice Date;
6. **Submission of Papers in Support of Attorneys' Fees and Expenses:** must be filed no later than fourteen (14) days prior to the Opt-Out and Objection Deadlines;
7. **Submission of Papers in Support of Final Approval of Settlement and in Response to any Objections:** must be filed no later than fourteen (14) days prior to the date of the Final Approval Hearing; and
8. **Final Approval Hearing:** will occur no earlier than one hundred and twenty (120) days after the entry of the Preliminary Approval Order, or such other date as ordered by the Court.

Dated: December 23, 2025

Respectfully submitted,

/s/ Jon Mann

Jonathan S. Mann (MAN057)

Austin B. Whitten (WHI165)

**PITTMAN, DUTTON, HELLUMS,
BRADLEY & MANN, P.C.**

2001 Park Place North, Suite 1100
Birmingham, AL 35203
Tel: (205) 322-8880
Email: jonm@pittmandutton.com
Email: austinw@pittmandutton.com

Hirlye R. "Ryan" Lutz, III (LUT005)
F. Jerome Tapley (TAP006)
Hunter Phares (PHA007)
CORY WATSON, P.C.
2131 Magnolia Avenue South
Birmingham, AL 35205
Tel: (205) 328-2200
Email: rlutz@corywatson.com
Email: jtapley@corywatson.com
Email: hphares@corywatson.com

Nicholas A. Migliaccio (*pro hac vice*)
Jason S. Rathod (*pro hac vice*)
MIGLIACCIO & RATHOD LLP
412 H St. NE, Suite 302
Washington, D.C. 20002
Tel: (202) 470-3520
Email: nmigliaccio@classlawdc.com
Email: jrathod@classlawdc.com

*Counsel for Named Plaintiffs and the
Proposed Class*

CERTIFICATE OF SERVICE

I hereby certify that on December 23, 2025, I filed the foregoing with the Clerk of the Court using the Court's AlaFile system, which will send notice to all counsel of record.

/s/ Jon Mann

Of Counsel

EXHIBIT 1

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release¹ is entered into by and among Plaintiffs Samuel Lee, Christopher Yates, Micah Jones, Melvin Elliott, Susan Carew, and Jimmy Tolleson (collectively, “Plaintiffs” or “Named Plaintiffs”), for themselves and on behalf of the Settlement Class, and Defendant Baptist Health Centers, LLC, d/b/a Cardiovascular Associates (“CVA” or “Defendant”), subject to preliminary and final Court approval. As provided herein, Defendant and the Named Plaintiffs hereby stipulate and agree that, in consideration of the promises and covenants set forth in this Agreement and upon entry by the Court of a final order and judgment, all claims of the Settlement Class against the Defendant in connection with the Data Security Incident as alleged in the action titled *Samuel Lee, et al. v. Baptist Health Centers, LLC, d/b/a Cardiovascular Associates*, Case No. 01-CV-2023-904352.00, pending in the Circuit Court of Jefferson County, Alabama, Birmingham Division, Tenth Judicial Circuit, shall be settled and compromised upon the terms and conditions contained herein. The Named Plaintiffs and Defendant are collectively referred to herein as the “Parties.”

I. RECITALS

A. CVA is a cardiovascular and cardiology medical practice group based in Birmingham, Alabama.

B. On February 3, 2023, and March 17, 2023, CVA notified individuals, including patients, that CVA discovered that an unauthorized third party was able to access certain systems that contained personal information and remove a copy of some data from the network between November 28, 2022, and December 5, 2022. CVA also informed these individuals that their personally identifiable information (“PII”) and/or protected health information (“PHI”) may have been contained within the impacted files (the “Data Security Incident”).

C. On December 1, 2023, the Named Plaintiffs filed a Class Action Complaint in the Circuit Court of Jefferson County, Alabama, Birmingham Division, Tenth Judicial Circuit, captioned *Samuel Lee, et al. v. Baptist Health Centers, LLC, d/b/a Cardiovascular Associates*, Case No. 01-CV-2023-904352.00. The Named Plaintiffs asserted claims against Defendant for (1) Negligence/Wantonness; (2) Negligence *Per Se*; (3) Breach of Express/Implied Contract; (4) Breach of Fiduciary Duty; (5) Breach of Confidence; and (6) Unjust Enrichment.

D. On January 3, 2024, CVA filed a Motion to Dismiss, to which the Plaintiffs filed an Opposition to Defendant’s Motion to Dismiss on February 16, 2024. After the Court heard oral argument on Defendant’s Motion on March 5, 2024, the Court granted in part and denied in part Defendant’s Motion to Dismiss, allowing Plaintiffs’ claims for negligence, wantonness, and negligence *per se* to proceed.

¹ Unless provided elsewhere, all capitalized terms shall have the meaning set forth in Section II of this Agreement.

E. On February 15, 2024, the Court granted Plaintiffs' Motion to Appoint Interim Co-Lead Class Counsel, appointing Pittman, Dutton, Hellums, Bradley & Mann, P.C. and Cory Watson, P.C. as Interim Co-Lead Class Counsel.

F. The Parties began exchanging discovery after the Court's ruling on the Motion to Dismiss.

G. On November 20, 2024, counsel for the Parties participated in a full day mediation with mediator J. Allen Schrieber of Schrieber ADR in Birmingham, Alabama, but the Parties were unable to reach a resolution.

H. Thereafter, the Parties continued to participate in the discovery process, which resulted in Defendant producing over 50,000 responsive documents.

I. The Parties continued negotiations during the discovery process, which resulted in a settlement in principle among the Parties on August 15, 2025.

J. The Parties did not discuss attorneys' fees, costs, and expenses, or Service Awards for the Named Plaintiffs prior to reaching an agreement as to the material terms of the relief for the Settlement Class.

K. Plaintiffs believe that the claims asserted in the Action, as set forth in the Complaint, have merit. Plaintiffs and Class Counsel recognize and acknowledge, however, the expense and length of continued proceedings necessary to prosecute the Action against CVA through motion practice, trial, and potential appeals. They have also taken into account the uncertain outcome and risk of further litigation, as well as the difficulties and delays inherent in such litigation. 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 Action. They have determined that the Settlement set forth in this Settlement Agreement is fair, reasonable, and adequate, and in the best interests of the Settlement Class.

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

M. The Parties now agree to settle this Action in its entirety, without any admission of liability with respect to all Released Claims of the Settlement Class. The Parties intend this Agreement to bind the Named Plaintiffs, Defendant, and all Settlement Class Members who do not timely and properly exclude themselves from the Settlement.

NOW, THEREFORE, in light of the foregoing, for good and valuable consideration, the receipt of which is hereby mutually acknowledged, it is hereby stipulated and agreed by the Parties that the Action be settled, compromised, and dismissed on the merits and with prejudice as to Defendant, subject to Court approval, on the following terms and conditions:

II. DEFINITIONS

In addition to the terms defined at various points within this Agreement, the following defined terms apply throughout this Agreement:

1. “**Action**” means or refers to the matter titled *Samuel Lee, et al. v. Baptist Health Centers, LLC, d/b/a Cardiovascular Associates*, Case No. 01-CV-2023-904352.00, pending in the Circuit Court of Jefferson County, Alabama, Birmingham Division, Tenth Judicial Circuit.

2. “**Administration and Notice Costs**” means all reasonable costs and expenses incurred by the Settlement Administrator in carrying out its duties under this Agreement, including all costs and expenses incurred in connection with implementing and executing the Notice Program.

3. “**Agreement**” or “**Settlement Agreement**” means this Settlement Agreement and Release, including its attached exhibits (which are an integral part of this Settlement Agreement and Release and are incorporated in their entirety herein by reference).

4. “**Approved Claim**” means a valid Settlement Claim in an amount approved by the Settlement Administrator or found to be valid through the dispute resolution process, as set forth in this Agreement.

5. “**Claims Deadline**” means the deadline by which a Claim Form must be postmarked or submitted electronically to the Settlement Website, in order for a Settlement Class Member to be entitled to any of the monetary consideration contemplated in this Settlement Agreement. The Claims Deadline shall be ninety (90) days after the Notice Deadline.

6. “**Claim Form**” or “**Claim**” means the form Settlement Class Members must submit to be eligible for relief under the terms of the Settlement, the proposed form of which is attached hereto as **Exhibit A**.

7. “**Class Counsel**” means:

Jonathan S. Mann
 Austin B. Whitten
**PITTMAN, DUTTON, HELLUMS,
 BRADLEY & MANN, P.C.**
 2001 Park Place North, Suite 1100
 Birmingham, AL 35203

Hirlye R. “Ryan” Lutz, III
 Hunter Phares
CORY WATSON, P.C.
 2131 Magnolia Avenue South
 Birmingham, AL 35205

Nicholas A. Migliaccio
 Jason S. Rathod
MIGLIACCIO & RATHOD LLP
 412 H St. NE, Suite 302
 Washington, D.C. 20002

8. **“Class List”** means a list compiled by the Settlement Administrator that shall include all persons identified by Defendant to be Settlement Class Members, and whose full name and current or last known address is provided to the Settlement Administrator by Defendant. Defendant shall provide this information to the Settlement Administrator within seven (7) days after the Court’s entry of the Preliminary Approval Order.

9. **“Class Representative(s)”** means Samuel Lee, Christopher Yates, Micah Jones, Melvin Elliott, Susan Carew, and Jimmy Tolleson.

10. **“Complaint”** means the Class Action Complaint filed by Plaintiffs in the Action.

11. **“Court”** means the Circuit Court of Jefferson County, Alabama, Birmingham Division, Tenth Judicial Circuit.

12. **“Data Security Incident”** means the data security incident affecting CVA between November 28, 2022, and December 5, 2022.

13. **“Defendant’s Counsel”** means:

Scott A. Elder
 Sarah O’Donohue
ALSTON & BIRD LLP
 1201 West Peachtree Street
 Atlanta, GA 30309

14. **“Effective Date”** means the date when this Agreement becomes final, which is the latest of (i) seven (7) days after the Final Approval Order and Judgment is entered if no notice of appeal or motion tolling the time for appeal is filed, or (ii) if any appeal is filed, fifteen (15) days after an order by the highest appealable court affirming the Final Approval Order and Judgment without material change or dismissing or otherwise disposing of the appeal with prejudice.

15. **“Fee Award and Costs”** means the amount of attorneys’ fees, costs, and expenses awarded by the Court to be paid to Class Counsel from the Settlement Fund.

16. “**Fee Request**” means Class Counsel’s application for the payment of attorneys’ fees, costs, and expenses from the Settlement Fund.

17. “**Final Approval**” means the date that the Court enters an order and judgment granting final approval of the Settlement and determines the amount of fees, costs, and expenses awarded to Class Counsel and the amount of the Service Awards. In the event that the Court issues separate orders addressing the foregoing matters, then Final Approval means the date of the last of such orders.

18. “**Final Approval Order and Judgment**” means the order and judgment that the Court enters upon Final Approval. In the event that the Court issues separate orders addressing the matters constituting Final Approval, then Final Approval Order and Judgment includes all such orders.

19. “**Long Form Notice**” means the content of the notice substantially in the form as **Exhibit B**, which is the detailed, long form notice that will be posted on the Settlement Website that will include robust details about the Settlement.

20. “**Named Plaintiffs**” means Samuel Lee, Christopher Yates, Micah Jones, Melvin Elliott, Susan Carew, and Jimmy Tolleson.

21. “**Net Settlement Fund**” means the amount of funds that remain in the Settlement Fund after funds are paid from or allocated for payment from the Settlement Fund for the following: (i) Administration and Notice Costs, (ii) Taxes and Tax-Related Expenses, (iii) Service Award payments approved by the Court, and (iv) Fee Award and Costs approved by the Court.

22. “**Non-Profit Residual Recipient**” means a third-party *cy pres* recipient agreed upon by the Parties and approved by the Court to accept Remainder Funds in the Net Settlement Fund after completion of the claims administration process set forth herein.

23. “**Notice**” means the direct notice of this proposed Settlement, which is to be provided substantially in the manner set forth in this Settlement Agreement and **Exhibit B** (Long Form Notice) and **Exhibit C** (Short Form Notice), and is consistent with the requirements of due process.

24. “**Notice Date**” and “**Notice Deadline**” mean thirty (30) days after the Court has entered the Preliminary Approval Order.

25. “**Notice Program**” means the notice methods provided for in this Agreement and consists of (1) Notice to all Settlement Class Members via one or more summary postcard notice(s) via United States Postal Service and (2) Notice posted on the Settlement Website. The forms of Notice shall be substantially in the forms attached as **Exhibit B** (Long Form Notice) and **Exhibit C** (Short Form Notice) to this Agreement and approved by the Court, and the Notice Program shall be effected in substantially the manner provided in Section VIII.

26. “**Objection Deadline**” means sixty (60) days after the Notice Deadline.

27. **“Opt-Out Deadline”** means sixty (60) days after the Notice Deadline.
28. **“Participating Settlement Class Member”** means a Settlement Class Member who does not submit a valid Request for Exclusion prior to the Opt-Out Deadline.
29. **“Personal Information”** means an individual’s PII and PHI, collectively.
30. **“Personally Identifying Information”** or **“PII”** means an individual’s name, date of birth, address, Social Security Number, passport and driver’s license numbers, credit and debit card information, and financial account information as referred to in the notices of Data Security Incident sent by CVA on February 3, 2023, and March 17, 2023.
31. **“Preliminary Approval Order”** means an order directing issuance of Notice to Settlement Class Members, determining that the Court will likely be able to approve the Settlement, and determining that the Court will likely be able to certify the Settlement Class for purposes of judgment, attached as **Exhibit D**. Such order will include the forms and procedure for providing Notice to the Settlement Class, including Notice of the procedure for Settlement Class Members to object to or opt out of the Settlement, and set a date for the Final Approval Hearing.
32. **“Protected Health Information”** or **“PHI”** means an individual’s health insurance information, such as name of insurer/government payor and member ID, policy and/or group number, medical and treatment information, such as medical record number, dates of service, provider and facility names, other visit, procedure, and diagnosis information, and possibly assessments, tests, and imaging, billing and claims information, such as account and/or claim status, billing and diagnostic codes, payor information, and financial account information as referred to in the notices of Data Security Incident sent by CVA on February 3, 2023, and March 17, 2023.
33. **“Released Claims”** means any and all past, present, and future claims, demands, rights, actions or causes of action, liabilities, damages, losses, obligations, judgments, suits, penalties, remedies, matters, and issues of any kind or nature, whether known or unknown, contingent or absolute, existing or potential, suspected or unsuspected, disclosed or undisclosed, matured or unmatured, liquidated or unliquidated, legal, statutory, or equitable, in the Action, or in any court, tribunal, or proceeding by or on behalf of the Named Plaintiffs or any members of the Settlement Class, arising out of or relating to the Data Security Incident, and which have been asserted or could have been asserted based on the facts alleged in this Action against any of the Released Parties (defined below) whether based on federal, state, local, statutory, common law, or any other law, rule, or regulation, including the law of any jurisdiction outside the United States, against any or all of the Released Parties, which the Named Plaintiffs or any member of the Settlement Class ever had, now has, or hereinafter may have, prior to entry of the Final Approval Order and Judgment in this Action. Released Claims shall not include the right of Named Plaintiffs, Settlement Class Members, or any Released Party to enforce the terms of the Settlement Agreement and claims not arising from the facts alleged in the Action.
34. **“Released Party”** means Baptist Health Centers, LLC, d/b/a Cardiovascular Associates, and any and all of its current or former, direct or indirect, parents, subsidiaries,

divisions, or affiliates, including but not limited to Tenet Healthcare Corporation (“Tenet”), their respective successors or predecessors, or any entity in which CVA or Tenet has a controlling interest, or any of their current or former officers and directors (“**Released Entities**”), and the owners, associates, employers, employees, agents, consultants, contractors, independent contractors, vendors, insurers, directors, managers, managing directors, officers, partners, principals, members, shareholders, legal representatives, successors in interest, assigns and persons, firms, trustees, trusts, corporations, officers, directors, general or limited partners of the Released Entities, any CVA or Tenet managed entities, and any and all other individuals or entities in which CVA or Tenet has a controlling interest or that are affiliated with them, or any other representatives of any of these persons and entities.

35. “**Releasing Parties**” means the Named Plaintiffs, any Settlement Class Member who does not timely and properly opt out from the Settlement, and any person claiming or receiving a benefit under this Settlement.

36. “**Remainder Funds**” means the funds, if any, that remain in the Settlement Fund after payment of Administration and Notice Costs, Fee Award and Costs, claims for reimbursement of Documented Monetary Losses, and Pro Rata Cash Payments, as described below. The funds remaining in the Settlement Fund after the above payments have been made and the time for Settlement Class Members to cash and/or deposit checks has expired will be Remainder Funds. The Remainder Funds will be sent to the Non-Profit Residual Recipient as a *cy pres* distribution. The Parties will jointly recommend to the Court that the Alabama Civil Justice Foundation should be the recipient of the *cy pres* distribution.

37. “**Service Award**” means an amount to be awarded by the Court that is intended to compensate the Class Representatives for their efforts in the litigation and commitment on behalf of the Settlement Class.

38. “**Settlement**” means this settlement into which the Parties have entered to resolve the Action. The terms of the Settlement are as set forth in this Agreement, including the exhibits hereto.

39. “**Settlement Administrator**” presumptively means EisnerAmper, as selected by the Parties to serve as the Settlement Administrator. In the absence of agreement, either Class Counsel or Defendant’s Counsel may move the Court to substitute a different organization as the Settlement Administrator, upon a showing that the responsibilities of the Settlement Administrator have not been adequately executed by EisnerAmper.

40. “**Settlement Class**” means all persons residing in the United States whose Personal Information was accessed by an unauthorized third party as a result of the Data Security Incident discovered by CVA on or about December 5, 2022. The Settlement Class contains approximately 433,348 individuals. Excluded from the Settlement Class are the Court, the officers and directors of Defendant, persons who have been separately represented by an attorney and entered into a separate settlement agreement in connection with the Data Security Incident, and persons who timely and validly request exclusion from the Settlement Class.

41. “**Settlement Class Member**” shall mean an individual who falls within the definition of the Settlement Class.

42. “**Settlement Fund**” shall mean the sum of Four Million, Eight Hundred Fifty Thousand Dollars and No Cents (\$4,850,000.00) which Defendant agrees to pay to resolve the claims of the Settlement Class, and to fund all relief to the Settlement Class as described herein, including the Administration and Notice Costs, Service Awards, and the Fee Award and Costs, this being the full and complete limit and extent of Defendant’s obligations with respect to the Settlement.

43. “**Settlement Payment**” means the payment to be made via mailed check and/or electronic payment from the Settlement Fund to Settlement Class Members who submitted Valid Claims to the Settlement Administrator.

44. “**Settlement Website**” means the website that the Settlement Administrator will establish as soon as practicable following entry of the Preliminary Approval Order, but prior to the commencement of the Notice Program, as a means for Settlement Class Members to obtain notice of and information about the Settlement, through and including hyperlinked access to **Exhibits A-D**, this Agreement, the Notice, the Preliminary Approval Order, the Claim Forms, the Complaint filed in the Action and such other documents as Class Counsel and Defendant’s Counsel agree to post or that the Court orders posted on the website. The URL of the Settlement Website shall be agreed upon by Class Counsel and Defendant’s Counsel. Settlement Class Members shall be able to submit Claim Forms electronically via the Settlement Website. The Settlement Website shall not include any advertising and shall remain operational until at least five (5) business days after the last payment or credit under this Settlement is made or the Settlement is terminated.

45. “**Short Form Notice**” means the postcard notice that will be mailed to each available Settlement Class Member attached as **Exhibit C**.

46. “**Taxes and Tax-Related Expenses**” means any and all applicable taxes, duties, and similar charges imposed by a government authority (including any estimated taxes, interest, or penalties) arising in any jurisdiction, if any, with respect to the income or gains earned by or in respect of the Settlement Fund, including, without limitation, any taxes that may be imposed upon CVA with respect to any income or gains earned by or in respect of the Settlement Fund for any period while it is held in the Settlement Fund.

47. “**Unknown Claims**” means any of the Released Claims that either Plaintiffs do not know or suspect to exist in their favor at the time of the release of the Released Entities that, if known by them, might have affected their settlement with, and release of, the Released Entities, or might have affected their decision not to object to and/or to participate in this Settlement. With respect to any and all Released Claims, the Parties stipulate and agree that upon the Effective Date, Plaintiffs intend to and expressly shall have waived the provisions, rights, and benefits conferred by California Civil Code § 1542, and also any and all provisions, rights, and benefits conferred by any law of any state, province, or territory of the United States (including, without limitation, California Civil Code §§ 1798.80 *et seq.*, Montana Code § 28-1-1602; North Dakota Cent. Code

§ 9-13-02; and South Dakota Codified Laws § 20-7-11), which is similar, comparable, or equivalent to California Civil Code §1542, which provides:

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.

Plaintiffs may hereafter discover facts in addition to, or different from, those that they, and any of them, now know or believe to be true with respect to the subject matter of the Released Claims, but Plaintiffs expressly 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 of which this release is a part.

48. “**United States**” as used in this Settlement Agreement includes the District of Columbia and all territories.

49. “**Valid Claims**” means Claim Forms submitted by Settlement Class Members that indicate the Settlement Class Members’ Settlement benefit election and provide the Settlement Administrator with correct information for disbursement of a payment for Documented Monetary Losses or Pro Rata Cash Payment, and that are sent to the Settlement Administrator prior to the Claims Deadline.

III. SETTLEMENT CLASS

50. For Settlement purposes only, the Parties agree that the Court should certify the following Settlement Class defined as:

All persons residing in the United States whose Personal Information was accessed as a result of the Data Security Incident discovered by CVA on or about December 5, 2022.

For the purposes of determining membership in the Settlement Class, Defendant has identified approximately 433,348 individuals who had their PII and/or PHI impacted in the Data Security Incident. It is intended that these approximately 433,348 individuals shall constitute the members of the Settlement Class.

51. Excluded from the Settlement Class are Defendant, Defendant’s current or former parents, subsidiaries, divisions, or affiliates, or their respective successors or predecessors, or any entity in which Defendant or its parents has a controlling interest, or any of their current or former officers and directors; all judges presiding over the Action and members of their families; persons who properly execute and file a timely Request for Exclusion from the Settlement Class; persons whose claims in this matter have been finally adjudicated on the merits or otherwise released;

Class Counsel and Defendant's Counsel; and the legal representatives, successors, and assigns of any such excluded persons.

IV. SETTLEMENT FUND

52. **Establishment of Settlement Fund.** Defendant agrees to make or cause to be made a payment of Four Million, Eight Hundred Fifty Thousand Dollars and No Cents (\$4,850,000.00) into escrow for the creation of a common fund ("Settlement Fund"), which shall constitute the sole and entire payment obligation of Defendant with respect to this Settlement and from which shall be paid (i) Administration and Notice Costs; (ii) Taxes and Tax-Related Expenses; (iii) Settlement Class payments; and (iv) Fee Award and Costs and (v) Service Awards, as follows. Within twenty-one (21) days after the Preliminary Approval Order, Defendant shall make a preliminary payment of Five Hundred Thousand Dollars (\$500,000.00) to the Settlement Administrator to be deposited in an interest-bearing bank escrow account established and administered by the Settlement Administrator ("Escrow Account"). Defendant agrees to pay the remainder of the Settlement Fund (i.e., Four Million, Three Hundred Fifty Thousand Dollars and No Cents, \$4,350,000.00) within seven (7) days after the Effective Date. To the extent this Settlement Agreement is not finally approved, Defendant will be entitled to the return of any amounts not already incurred by the Settlement Administrator in connection with administration of the Settlement.

53. **Escrow Account.** Payments for the Settlement Fund are to be deposited in an interest-bearing bank escrow account established at a financial institution chosen by the Parties and/or the Settlement Administrator (the "Escrow Agent") and administered by the Settlement Administrator (the "Escrow Account"). The Escrow Account shall be held in a Qualified Settlement Fund (defined below) in interest-bearing bank account deposits with commercial banks with excess capital exceeding One Billion United States Dollars and Zero Cents (\$1,000,000,000.00), with a rating of "A" or higher by S&P and in an account that is fully insured by the United States Government or the FDIC.

54. **Interest.** All interest on the funds in the Escrow Account shall accrue to the benefit of the Settlement Class. Any interest shall not be subject to withholding and shall, if required, be reported appropriately to the Internal Revenue Service by the Settlement Administrator. The Settlement Administrator is responsible for the payment of all Taxes and Tax-Related Expenses.

55. **Non-Reversionary.** The Settlement Fund is non-reversionary. As of the Effective Date, all rights of Defendant in or to the Settlement Fund shall be extinguished, except in the event this Settlement Agreement is terminated, as described in Paragraph 90.

56. **Qualified Settlement Fund.** The Parties agree that the Settlement Fund is intended to be maintained as a Qualified Settlement Fund within the meaning of Treasury Regulation § 1.468 B-1, and that the Settlement Administrator, within the meaning of Treasury Regulation § 1.468 B-2(k)(3), shall be responsible for filing tax returns and any other tax reporting for or in respect of the Settlement Fund and paying from the Settlement Fund any Taxes and Tax-Related Expenses owed with respect to the Settlement Fund. The Parties agree that the Settlement Fund shall be treated as a Qualified Settlement Fund (QSF) from the earliest date possible and agree to any relation-back election required to treat the Settlement Fund as a QSF from the earliest date

possible. Any and all funds held in the Settlement Fund shall be held in an interest-bearing account and must be insured by the Federal Deposit Insurance Corporation. The Settlement Administrator shall select the financial institution at which the QSF is to be created and held, subject to approval by the Parties. Funds may be placed in a non-interest-bearing account as may be reasonably necessary during the check clearing process. The Settlement Administrator shall provide an accounting of any and all funds in the Settlement Fund, including any interest accrued thereon and payments made pursuant to this Agreement, upon request of any of the Parties.

57. **Custody of Settlement Fund.** The Settlement Fund shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as the entirety of the Settlement Fund is distributed pursuant to this Settlement Agreement or the balance returned to those who paid the Settlement Fund in the event this Settlement Agreement is terminated in accordance with Paragraph 90.

58. **Use of the Settlement Fund.** As further described in this Agreement, the Settlement Fund shall be used by the Settlement Administrator to pay for the following: (i) Administration and Notice Costs; (ii) Taxes and Tax-Related Expenses; (iii) Settlement Class payments; and (iv) Fee Award and Costs and (v) Service Awards. No amounts may be withdrawn from the Settlement Fund unless expressly authorized by this Agreement or approved by the Court.

59. **Taxes and Representations.** Taxes and Tax-Related Expenses relating to the Settlement Fund shall be considered Administration and Notice Costs and shall be timely paid by the Settlement Administrator out of the Settlement Fund without prior order of the Court. Further, the Settlement Fund shall indemnify and hold harmless the Parties and their counsel for Taxes and Tax-Related Expenses (including, without limitation, taxes payable by reason of any such indemnification payments). The Parties and their respective counsel have made no representation or warranty with respect to the tax treatment by any Class Representative or any Settlement Class Member of any payment or transfer made pursuant to this Agreement or derived from or made pursuant to the Settlement Fund. Each Class Representative and Participating Settlement Class Member shall be solely responsible for the federal, state, and local tax consequences to him, her, or it of the receipt of funds from the Settlement Fund pursuant to this Agreement. However, where a Settlement Class Member who is entitled to more than Five Hundred and Ninety-nine Dollars and No Cents (\$599.00) fails to submit an IRS Form W-9 (or equivalent tax document), the Settlement Administrator shall consult with counsel to determine how to remit payment to the Settlement Class Member (i.e., capped at Five Hundred and Ninety-nine Dollars and No Cents (\$599.00) or withholding necessary taxes and sending the remainder to the Settlement Class Member).

V. BENEFITS TO SETTLEMENT CLASS MEMBERS

60. The Settlement Administrator will agree to make the following compensation available from the Settlement Fund to Settlement Class Members who submit valid and timely Claim Forms. Claims will be subject to review for completeness and plausibility by the Settlement Administrator.

- a. **Reimbursement of Documented Monetary Losses:** The Parties will create a claims process through which all Settlement Class Members may submit a Claim Form for reimbursement of documented monetary losses that are fairly traceable to the Data Security Incident, up to \$5,000 per individual (“Documented Monetary Losses”). Documented Monetary Losses may include, without limitation, 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 the Data Security Incident through the date of claim submission; and miscellaneous expenses such as notary, fax, postage, copying, mileage, and long-distance telephone charges. Settlement Class Members with Documented Monetary Losses must submit documentation supporting their claims. This can include receipts or other documentation not “self-prepared” by the claimant that documents the costs incurred. “Self-prepared” documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but can be considered to add clarity or support other submitted documentation.

- b. **Credit and Medical Data Monitoring:** All Settlement Class Members may submit a claim for three (3) years of credit and medical/healthcare data monitoring (such as CyEx Medical Shield Ultra) and at least \$1,000,000 of fraud/identity theft insurance. Settlement Class Members may use their code to enroll for a period of 12 months (meaning that a Settlement Class Member could enroll up to the end of the first year and have coverage for the full three (3) years). Such coverage and flexibility in enrollment will provide protection for Settlement Class Members against future identity theft. The three-year period will commence when Settlement Class Members use their codes to activate the Credit and Medical Data Monitoring.

- c. **Pro Rata Cash Payment:** All Settlement Class Members may submit a claim for a Pro Rata Cash Payment. The amount of this benefit shall be determined pro rata based on the amount remaining in the Settlement Fund following payment of the Administration and Notice Costs, Taxes and Tax-Related Expenses, approved claims for Documented Monetary Losses, costs of Credit and Medical Data Monitoring, Fee Award and Costs, and Service Awards. There will be no maximum payment amount for Pro Rata Cash Payments.

- d. **Business Practices Changes:** Plaintiffs have received assurances that Defendant has undertaken certain reasonable steps to further secure its systems and environments, and Defendant will prepare a confidential declaration detailing the same. None of the past or future costs associated with the development and implementation of these enhanced security procedures have been or will be paid by Plaintiffs and no portion of the Settlement Fund is to be used for this purpose.

61. **Assessing Claims for Documented Monetary Losses.** The Settlement Administrator shall verify that each person who submits a Claim Form is a Settlement Class Member. The Settlement Administrator shall have the sole discretion and authority to determine whether and to what extent documentation for Documented Monetary Losses reflects valid losses

actually incurred that are fairly traceable to the Data Security Incident but may consult with Class Counsel in making individual determinations. In assessing what qualifies as “fairly traceable,” the Parties agree to instruct the Settlement Administrator to consider (i) whether the timing of the loss occurred on or after the Data Security Incident; and (ii) whether the Personal Information used to commit identity theft or fraud consisted of the same type of personal information of the claimant that was stored on CVA’s systems. Costs expended after December 5, 2022, for mitigation measures like credit monitoring services, fraud resolution services, and professional services incurred to address identity theft or fraud shall be presumed to be “reasonably incurred.” The Settlement Administrator is authorized to contact any Settlement Class Member (by email, telephone, or U.S. mail) to seek clarification regarding a submitted claim prior to making a determination as to its validity.

62. **Disputes.** To the extent the Settlement Administrator determines a claim for Documented Monetary Losses is deficient in whole or part, within a reasonable time of making such a determination, the Settlement Administrator shall notify the Settlement Class Member of the deficiencies and give the Settlement Class Member twenty-one (21) days to cure the deficiencies. Such notifications shall be sent via email, unless the claimant did not provide an email address, in which case such notifications shall be sent via U.S. mail. If the Settlement Class Member attempts to cure the deficiencies but, at the sole discretion and authority of the Settlement Administrator, fails to do so, the Settlement Administrator shall notify the Settlement Class Member of that determination within ten (10) days of the determination. The Settlement Administrator may consult with Class Counsel in making such determinations.

63. **Settlement Administration Fees.** The Settlement Fund amount provided by Defendant, or on behalf of Defendant, will pay the entirety of the Administration and Notice Costs, including the cost of Notice. The Parties agree to review competitive bids for the settlement administration fees, all in order to contain the administration costs while still providing effective Notice to the Settlement Class. Administration and Notice Costs shall be paid through the Settlement Fund and are limited to the Settlement Fund amount.

64. Defendant will reasonably cooperate on establishing the appropriateness of the Settlement, including, but not limited to, a full Settlement Class List that identifies each Settlement Class Member and the address used by Defendant to provide notice of the Data Security Incident on February 3, 2023 and/or March 17, 2023.

65. Upon the Effective Date, and receipt of payee instructions and a Form W-9 for the payee, Defendant or its insurer shall pay to the Settlement Administrator the Settlement Fund to satisfy the payments in Paragraphs 60, 63, 95, and 97. Provided that Final Approval of this Settlement Agreement is granted by the Court without material change, material amendment, or material modification, the Settlement Fund will be used to satisfy Approved Claims for Settlement Class Members in exchange for a full, fair, and complete release of all Released Parties from Released Claims, and dismissal of the Action with prejudice.

66. The Settlement Fund represents the total extent of Defendant’s monetary obligations under the Settlement Agreement. Defendant shall have no obligation to make further payments into the Settlement Fund and shall have no financial responsibility or obligation relating

to the Settlement beyond the Settlement Fund, except insofar as such obligations are explicitly provided for in this Settlement Agreement.

VI. PAYMENTS TO PARTICIPATING SETTLEMENT CLASS MEMBERS

67. **Payment Timing.** Payments for Approved Claims for reimbursement for Documented Monetary Losses, and Pro Rata Cash Payments, shall be issued in the form of an electronic payment, or upon request, a check mailed (“Settlement Check”), within thirty (30) days after the allocation and distribution of funds are determined by the Settlement Administrator following the Effective Date. Activation codes for the Credit and Medical Data Monitoring shall be emailed or mailed within the same thirty (30) days.

68. **Timing.** Settlement Checks shall bear in the legend that they expire if not negotiated within ninety (90) days of their date of issue.

69. **Returned Checks.** For any Settlement Check returned to the Settlement Administrator as undeliverable (including, but not limited to, when the intended recipient is no longer located at the address), the Settlement Administrator shall make reasonable efforts to locate a valid address and resend the Settlement Check within thirty (30) days after the check is returned to the Settlement Administrator as undeliverable. In attempting to locate a valid address, the Settlement Administrator is authorized to send an email and/or place a telephone call to that Settlement Class Member to obtain updated address information. Any replacement Settlement Checks issued to Settlement Class Members shall remain valid and negotiable for sixty (60) days from the date of their issuance and may thereafter automatically be canceled if not cashed by the Settlement Class Members within that time.

70. **Uncashed Checks.** To the extent that a Settlement Check is not cashed within ninety (90) days after the date of issue, the Settlement Administrator shall undertake the following actions: (1) attempt to contact the Settlement Class Member by email and/or telephone to discuss how to obtain a reissued check; (2) if those efforts are unsuccessful, make reasonable efforts to locate an updated address for the Settlement Class Member using advanced address searches or other reasonable methods; and (3) reissuing a check or mailing the Settlement Class Member a postcard (either to an updated address if located or the original address if not) providing information regarding how to obtain a reissued check. Any reissued Settlement Checks issued to Settlement Class Members shall remain valid and negotiable for sixty (60) days from the date of their issuance and may thereafter automatically be canceled if not cashed by the Settlement Class Members within that time.

71. **Unclaimed Property.** No portion of the Settlement Fund shall revert or be repaid to Defendant after the Effective Date. To the extent any monies remain in the Net Settlement Fund more than one hundred and fifty (150) days after the distribution of Settlement Payments to the Settlement Class Members, or thirty (30) days after all reissued Settlement Checks are no longer negotiable, whichever occurs later or as otherwise agreed to by the Parties, any remaining monies shall be divided pro rata and disbursed in a secondary distribution to the Settlement Class Members who submitted Valid Claims, except that if the remaining monies (after covering additional costs of administration) are insufficient to provide a secondary distribution of at least Five Dollars and

No Cents (\$5.00) per eligible recipient, then the remaining monies shall be distributed to the Non-Profit Residual Recipient as approved by the Court.

72. **Deceased Class Members.** If the Settlement Administrator is notified that a Participating Settlement Class Member is deceased, the Settlement Administrator shall reissue the Settlement Check to the Participating Settlement Class Member's estate upon receiving proof the Participating Settlement Class Member is deceased and after consultation with Class Counsel.

VII. CLAIMS, CAPS, AND DISTRIBUTION OF SETTLEMENT FUNDS

73. **Submission of Electronic and Hard Copy Claims.** Settlement Class Members may submit Claim Forms via return postcard, electronically via the Settlement Website, or otherwise physically by mail to the Settlement Administrator. Claim Forms must be submitted electronically or postmarked on or before the Claims Deadline.

74. **Individual Caps.** Participating Settlement Class Members are subject to an individual aggregate cap of Five Thousand Dollars and No Cents (\$5,000.00) for payments for Documented Monetary Losses made under the Settlement. Participating Settlement Class Members may submit claims for both Documented Monetary Losses and Pro Rata Cash Payments.

75. **Order of Distribution of Funds.** The Settlement Administrator must first use the funds available in the Net Settlement Fund to make payments for Approved Claims for Documented Monetary Losses, and then to fund Valid Claims for Credit and Medical Data Monitoring. The Settlement Administrator shall then utilize the remaining funds to make Pro Rata Cash Payments.

76. **Pro-Rata Contingencies.** In the event that the aggregate amount of all claims for Settlement benefits exceeds the total amount of the Net Settlement Fund, then the value of such payments shall be reduced on a pro rata basis, such that the aggregate value of all payments for benefits do not exceed the Net Settlement Fund. In the event that the aggregate amount of Approved Claims for all benefits does not total the Net Settlement Fund, then the value of each Participating Settlement Class Member's Pro Rata Cash Payment shall be increased on a pro rata basis such that the aggregate value of all Approved Claims, to the greatest extent feasible, exhaust the Net Settlement Fund. All pro rata determinations required by this Paragraph shall be performed by the Settlement Administrator.

VIII. CLASS NOTICE, OPT-OUTS, AND OBJECTIONS

77. **Notice.** Within seven (7) days after the date of the Preliminary Approval Order, CVA shall provide the Settlement Class List to the Settlement Administrator. Within twenty-three (23) days after receipt of Settlement Class List, the Settlement Administrator shall disseminate Notice to the members of the Settlement Class. Notice shall be disseminated via summary postcard to Settlement Class Members identified on the Settlement Class List via U.S. mail.

78. **Opt-Outs.** The Notice shall explain the procedure for Settlement Class Members to exclude themselves or "opt out" of the Settlement by submitting a Request for Exclusion to the

Settlement Administrator postmarked no later than sixty (60) days after the Notice Deadline. The Request for Exclusion must include the name of the proceeding, the individual's full name, current address, personal signature, and the words "Request for Exclusion" or a comparable statement that the individual does not wish to participate in the Settlement at the top of the communication. The Notice must state that any Settlement Class Member who does not file a timely Request for Exclusion in accordance with this Paragraph will lose the opportunity to exclude himself or herself from the Settlement and will be bound by the Settlement.

79. **Objections.** The Notice shall explain the procedure for Settlement Class Members to object to the Settlement by submitting written objections to the Settlement Administrator postmarked no later than sixty (60) days after the Notice Deadline. The written objection must include (i) the name of the proceeding; (ii) the Settlement Class Member's full name, current mailing address, and telephone number; (iii) a statement that states with specificity the grounds for the objection, as well as any documents supporting the objection; (iv) a statement as to whether the objection applies only to the objector, to a specific subset of the class, or to the entire class; (v) the identity of any attorney representing the objector; (vi) a statement regarding whether the Settlement Class Member (or his/her attorney) intends to appear at the Final Approval Hearing; and (vii) the signature of the Settlement Class Member or the Settlement Class Member's attorney. The Notice must set forth the time and place of the Final Approval Hearing (subject to change) and state that any Settlement Class Member who does not file a timely and adequate objection in accordance with this Paragraph waives the right to object or to be heard at the Final Approval Hearing and shall be forever barred from making any objection to the Settlement.

IX. DUTIES OF THE SETTLEMENT ADMINISTRATOR

80. **Duties of Settlement Administrator.** The Settlement Administrator shall perform the functions and duties necessary to effectuate the Settlement and as specified in this Agreement, including, but not limited to, the following:

- a. Creating, administering, and overseeing the Settlement Fund;
- b. Obtaining the Settlement Class List for the purpose of disseminating Notice to Settlement Class Members;
- c. Providing Notice to Settlement Class Members via U.S. mail;
- d. Establishing and maintaining the Settlement Website;
- e. Establishing and maintaining a toll-free telephone line for Settlement Class Members to call and obtain pre-recorded answers to frequently asked questions, and leave a message to which Settlement Administrator will respond within one (1) business day;
- f. Responding to any mailed or emailed Settlement Class Member inquiries within one (1) business day;

- g. Reviewing, determining the validity of, and processing all Claims submitted by Settlement Class Members (including processing payments in excess of Five Hundred and Ninety-nine Dollars and No Cents (\$599.00) consistent with Paragraphs 59 and 60 above);
- h. Receiving Requests for Exclusion and objections from Settlement Class Members and providing Class Counsel a copy thereof no later than three (3) days following the deadline for submission of the same. If the Settlement Administrator receives any Requests for Exclusion, objections, or other requests from Settlement Class Members after the Opt-Out and Objection Deadlines, the Settlement Administrator shall promptly provide copies thereof to Class Counsel;
- i. After the Effective Date, processing and transmitting Settlement Payments to Settlement Class Members;
- j. Providing weekly or other periodic reports to Class Counsel and Defendant's Counsel that include information regarding the number of Settlement Checks mailed and delivered, Settlement Checks cashed, undeliverable information, and any other requested information relating to Settlement Payments. The Settlement Administrator shall also, as requested by Class Counsel or Defendant's Counsel and from time to time, provide the amount remaining in the Net Settlement Fund;
- k. In advance of the Final Approval Hearing, preparing an affidavit to submit to the Court that: (i) attests to implementation of Notice in accordance with the Preliminary Approval Order; and (ii) identifies each Settlement Class Member who timely and properly submitted a Request for Exclusion; and
- l. Performing any function related to Settlement administration at the agreed-upon instruction of Class Counsel or Defendant's Counsel, including, but not limited to, verifying that Settlement Payments have been distributed.

81. **Limitation of Liability.** The Parties, Class Counsel, and Defendant's Counsel shall not have any liability whatsoever with respect to (i) any act, omission, or determination of the Settlement Administrator, or any of its respective designees or agents, in connection with the administration of the Settlement or otherwise; (ii) the management, investment, or distribution of the Settlement Fund; (iii) the formulation, design, or terms of the disbursement of the Settlement Fund; (iv) the determination, administration, calculation, or payment of any claims asserted against the Settlement Fund; (v) any losses suffered by or fluctuations in the value of the Settlement Fund; or (vi) the payment or withholding of any Taxes and Tax-Related Expenses.

82. **Indemnification.** The Settlement Administrator shall indemnify and hold harmless the Parties, Class Counsel, and Defendant's Counsel for (i) any act or omission or determination of the Settlement Administrator, or any of Settlement Administrator's designees or agents, in connection with the Notice Program and the administration of the Settlement; (ii) the management, investment, or distribution of the Settlement Fund; (iii) the formulation, design, or terms of the disbursement of the Settlement Fund; (iv) the determination, administration, calculation, or

payment of any Claims asserted against the Settlement Fund; (v) any losses suffered by, or fluctuations in the value of the Settlement Fund; or (vi) the payment or withholding of any Taxes and Tax-Related Expenses.

X. PRELIMINARY APPROVAL, FINAL APPROVAL, AND JURISDICTION

83. **Certification of the Settlement Class.** For purposes of this Settlement only, the Parties stipulate to the certification of the Settlement Class, which is contingent upon the Court entering the Final Approval Order and Judgment of this Settlement and the occurrence of the Effective Date. Should: (1) the Settlement not receive final approval from the Court, or (2) the Effective Date not occur, the certification of the Settlement Class shall be void. CVA reserves the right to contest class certification for all other purposes. The Parties further stipulate to designate the Class Representatives as the representatives for the Settlement Class.

84. **Preliminary Approval.** Following execution of this Agreement, Class Counsel shall file a motion for preliminary approval, to permit issuance of Notice of the Settlement and for certification of the Settlement Class with the Court within ten (10) business days.

85. **Final Approval.** After entry by the Court of a Preliminary Approval Order, and no later than fourteen (14) days before the Final Approval Hearing, the Settlement Class Representatives shall file a motion seeking Final Approval of the Settlement and entry of a Final Approval Order and Judgment, including a request that the preliminary certification of the Settlement Class for purposes of the Settlement be made final.

86. **Final Approval Hearing.** The Parties will recommend the Final Approval Hearing be scheduled no earlier than one hundred and twenty (120) days after the entry of the Preliminary Approval Order.

87. **Appearances at Final Approval Hearing.** Any Settlement Class Member who wishes to appear at the Final Approval hearing must mail to the Court or file a notice of appearance in the Action by the Objection Deadline, as well as take actions required in the Long Form Notice or as otherwise required by the Court.

88. **Request for Final Approval Order and Judgment.** The Parties shall ask the Court to enter a Final Approval Order and Judgment including the following provisions:

- a. A finding that the Notice Program fully and accurately informs all Settlement Class Members entitled to notice of the material elements of the Settlement, constitutes the best notice practicable under the circumstances, constitutes valid, due, and sufficient notice, and complies fully with Alabama Rule of Civil Procedure 23, the Alabama Constitution, and any other applicable law;
- b. A finding that after proper notice to the class, and after sufficient opportunity to object, no timely objections to this Settlement have been made, or a finding that all timely objections have been considered and denied;

- c. Approval of the Settlement, as set forth in this Agreement, as fair, reasonable, adequate, and in the best interests of the Settlement Class, in all respects, finding that the Settlement is in good faith and ordering the parties to perform the Settlement in accordance with the terms of this Agreement;
- d. A finding that neither the Final Approval Order and Judgment, the Settlement, nor the Agreement constitutes an admission of liability by the Parties;
- e. A finding that Plaintiffs shall have been deemed to fully and finally release, relinquish, and discharge the Released Parties from the Released Claims;
- f. A finding that all Settlement Class Members who have not properly opted out of the Settlement Class are, following entry of Final Approval Order and Judgment, deemed to have fully and finally released, relinquished, and discharged the Released Parties from the Released Claims; and,
- g. If and when the Final Approval Order and Judgment is entered, the claims against Defendant in the Action shall be dismissed with prejudice.

89. **Jurisdiction.** The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall retain jurisdiction with respect to the administration, consummation, and enforcement of the Agreement, and shall retain jurisdiction for the purpose of enforcing all terms of the Agreement. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice and the Settlement Administrator. As part of its agreement to render services in connection with this Settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose.

90. **Termination.** Class Counsel (on behalf of the Settlement Class Members) and Defendant shall have the right to terminate this Agreement by providing written notice of their or its election to do so within seven (7) days of: (1) the Court's refusal to grant preliminary approval of the Settlement in any material respect; or (2) within fourteen (14) days of any of the following: (i) the Court's refusal to enter the Final Approval Order and Judgment in any material respect, or (ii) the date upon which the Final Approval Order and Judgment is modified or reversed in any material respect by any appellate or other court.

91. **Effect of Termination.** In the event of a termination as provided in Paragraph 90, this Agreement shall be considered null and void; all of the Parties' obligations under the Agreement shall cease to be of any force and effect and the Parties shall return to the status quo ante in the Action as if the Parties had not entered into this Agreement. In addition, in the event of such a termination, all of the Parties' respective pre-Settlement claims and defenses will be preserved.

XI. RELEASES

92. **The Release.** Upon the Effective Date, and in consideration of the Settlement benefits described herein, each of the Releasing Parties shall be deemed to have released, acquitted, and forever discharged Defendant and each of the Released Parties from any and all Released Claims.

93. **Unknown Claims.** The Released Claims include the release of Unknown Claims (as defined in Section II). Upon the Effective Date, Plaintiffs, the Settlement Class, and any Releasing Party shall be deemed to have, and shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits of Section 1542 of the California Civil Code, 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.

Upon the Effective Date, each of the Releasing Parties shall be deemed to have, and shall have, waived any and all provisions, rights, and benefits conferred by any law of any state, the District of Columbia, or any territory of the United States, by federal law, or principle of common law, or the law of any jurisdiction outside of the United States, which is similar, comparable, or equivalent to Section 1542 of the California Civil Code. Class Representatives, the Settlement Class, and the Releasing Parties acknowledge that they may 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 Release, but that it is their intention to finally and forever settle and release the Released Claims, including but not limited to any Unknown Claims they may have, as that term is defined in Section II.

94. **Release of Class Representatives and Class Counsel.** As of the Effective Date, CVA and its representatives, officers, agents, directors, affiliates, employees, insurers, and attorneys absolutely and unconditionally release and discharge the Class Representatives and Class Counsel from any and all liabilities, rights, claims, actions, causes of action, demands, damages, penalties, costs, attorneys' fees, losses, and remedies, whether known or unknown, existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, that result from, arise out of, are based upon, or relate to prosecution of the Action, the Settlement Agreement, or the Settlement claims process (provided, however, that this release and discharge shall not include claims by the Parties hereto to enforce the terms of the Settlement).

XII. SERVICE AWARD PAYMENTS

95. **Service Award Payments.** At least fourteen (14) days before the Opt-Out and Objection Deadlines, Class Counsel will file a motion seeking a Service Award payment for the Class Representatives in recognition for their contributions to this Action. CVA agrees not to

oppose Class Counsel's request for a Service Award not to exceed Three Thousand Five Hundred Dollars and No Cents (\$3,500.00) per representative. Once approved by the Court, the Settlement Administrator shall make the Service Award payments to the Class Representatives from the Settlement Fund. Such Service Award payments shall be paid by the Settlement Administrator, in the amount approved by the Court, no later than fourteen (14) days after the Effective Date.

96. **No Effect on Agreement.** In the event the Court declines to approve, in whole or in part, the payment of Service Awards in the amount requested, the remaining provisions of this Agreement shall remain in full force and effect. No decision by the Court, or modification, reversal, or appeal of any decision by the Court, concerning the amount of the Service Awards shall constitute grounds for termination of this Agreement.

XIII. ATTORNEYS' FEES, COSTS, EXPENSES

97. **Attorneys' Fees, Costs, and Expenses.** At least fourteen (14) days before the Opt-Out and Objection Deadlines, Class Counsel will file a motion for an award of attorneys' fees and litigation costs and expenses to be paid from the Settlement Fund. CVA agrees not to oppose Class Counsel's Fee Request for an award of attorneys' fees not to exceed one-third (33.33%) of the Settlement Fund, plus reimbursement of litigation costs and expenses which Class Counsel expects not to exceed Twenty-Five Thousand Dollars and No Cents (\$25,000.00). Prior to the disbursement or payment of the Fee Award and Costs under this Agreement, Class Counsel shall provide CVA and the Settlement Administrator a properly completed and duly executed IRS Form W-9.

98. **Allocation.** Unless otherwise ordered by the Court, Class Counsel shall have the sole and absolute discretion to allocate any approved Fee Award and Costs amongst Class Counsel and any other attorneys for Plaintiffs. CVA shall have no liability or other responsibility for allocation of any such attorneys' fees and costs.

99. **No Effect on Agreement.** The Parties agree that the Court's approval or denial of any request for a Fee Award and Costs is not a condition to this Settlement Agreement and is to be considered by the Court separately from the final approval, reasonableness, and adequacy of the Settlement. Any reduction to the Fee Award and Costs shall not operate to terminate or cancel this Settlement Agreement.

100. **Payment.** The Fee Award and Costs awarded by the Court shall be paid by the Settlement Administrator from the Settlement Fund no later than fourteen (14) days after the Effective Date.

XIV. NO ADMISSION OF LIABILITY

101. **No Admission of Liability.** The Parties understand and acknowledge that this Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties either previously or in connection with the negotiations or proceedings connected with this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or

defenses heretofore made, or an acknowledgment or admission by any party of any fault, liability, or wrongdoing of any kind whatsoever.

102. **No Use of Agreement.** Neither the Settlement Agreement, nor any act performed or document executed pursuant to or in furtherance of the Settlement: (i) is or may be deemed to be, or may be used as, an admission of, or evidence of, the validity of any claim made by Plaintiffs; or (ii) is or may be deemed to be, or may be used as, an admission of, or evidence of, any fault or omission by CVA in the Action or in any proceeding in any court, administrative agency, or other tribunal.

XV. MISCELLANEOUS

103. **Integration of Exhibits.** The exhibits to this Agreement and any exhibits thereto are a material part of the Settlement and are incorporated into and made a part of the Agreement.

104. **Entire Agreement.** This Agreement, including all exhibits hereto, shall constitute the entire Agreement among the Parties with regard to the subject matter hereof and shall supersede any previous agreements, representations, communications, and understandings among the Parties. This Agreement may not be changed, modified, or amended except in writing signed by all Parties, subject to Court approval. The Parties contemplate that, subject to Court approval or without such approval where legally permissible, the exhibits to this Agreement may be modified by subsequent agreement of counsel for the Parties prior to dissemination of Notice to the Settlement Class.

105. **Deadlines.** If any of the dates or deadlines specified herein falls on a weekend or legal holiday, the applicable date or deadline shall fall on the next business day. All references to “days” in this Agreement shall refer to calendar days unless otherwise specified.

106. **Singular and Plurals.** As used in this Agreement, all references to the plural shall also mean the singular and to the singular shall also mean the plural whenever the context so indicates.

107. **Headings.** The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

108. **Binding Effect.** This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of Plaintiffs and CVA.

109. **Construction.** For the purpose of construing or interpreting this Agreement, the Parties agree that this Agreement is to be deemed to have been drafted equally by all Parties hereto and shall not be construed strictly for or against any Party.

110. **Cooperation of Parties.** The Parties to this Agreement agree to cooperate in good faith to prepare and execute all documents, to seek Court approval, defend Court approval, and to do all things reasonably necessary to complete and effectuate the Settlement described in this Agreement.

111. **Obligation to Meet and Confer.** Before filing any motion in the Court raising a dispute arising out of or related to this Agreement, the Parties shall consult with each other and certify to the Court that they have consulted in good faith.

112. **No Conflict Intended.** Any inconsistency between the headings used in this Agreement and the text of the paragraphs of this Agreement shall be resolved in favor of the text.

113. **Governing Law.** The Agreement shall be construed in accordance with, and be governed by, the laws of the State of Alabama, without regard to the principles thereof regarding choice of law.

114. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all signatories do not sign the same counterparts. Original signatures are not required. Any signature submitted electronically, by facsimile, or through email of an Adobe PDF shall be deemed an original.

115. **Notices.** All notices to Class Counsel provided for herein, shall be sent by overnight mail and email to:

Jonathan S. Mann
**PITTMAN, DUTTON, HELLUMS,
 BRADLEY & MANN P.C.**
 2001 Park Place North, Suite 1100
 Birmingham, AL 35203
 jonm@pittmandutton.com

Hirlye R. "Ryan" Lutz, III
CORY WATSON, P.C.
 2131 Magnolia Avenue South
 Birmingham, AL 35205
 rlutz@corywatson.com

Nicholas A. Migliaccio
MIGLIACCIO & RATHOD, LLP
 412 H Street NE
 Washington, D.C. 20002
 nmigliaccio@classlawdc.com

All notices to CVA provided for herein, shall be sent by overnight mail and email to:

Scott A. Elder
 Sarah O'Donohue
ALSTON & BIRD LLP
 1201 West Peachtree Street
 Atlanta, GA 30309

scott.elder@alston.com
sarah.odonohue@alston.com

The notice recipients and addresses designated above may be changed by written notice.

116. **Authority.** Any person executing this Agreement in a representative capacity represents and warrants that he or she is fully authorized to do so and to bind the Party on whose behalf he or she signs this Agreement to all of the terms and provisions of this Agreement.

[SIGNATURES ON FOLLOWING PAGES]

By: Sharilee Smith

Date: 12/5/2025

Sharilee Smith
VP of Tax at Tenet Healthcare
BAPTIST HEALTH CENTERS, LLC, d/b/a Cardiovascular Associates

By: Scott Elder

Date: 12/5/2025

Scott A. Elder
ALSTON & BIRD LLP

Counsel for Defendant

By: _____

Date: _____

Jonathan S. Mann
**PITTMAN, DUTTON, HELLUMS,
BRADLEY & MANN, P.C.**

By: _____

Date: _____

Hirlye R. "Ryan" Lutz, III
CORY WATSON, P.C.

By: _____

Date: _____

Nicholas A. Migliaccio
MIGLIACCIO & RATHOD LLP

Class Counsel

By: _____ Date: _____
Sharilee Smith
VP of Tax at Tenet Healthcare
BAPTIST HEALTH CENTERS, LLC, d/b/a Cardiovascular Associates

By: _____ Date: _____
Scott A. Elder
ALSTON & BIRD LLP

Counsel for Defendant

By:  _____ Date: 12/08/2025
Jonathan S. Mann
**PITTMAN, DUTTON, HELLUMS,
BRADLEY & MANN, P.C.**

By: _____ Date: _____
Hirlye R. "Ryan" Lutz, III
CORY WATSON, P.C.

By: _____ Date: _____
Nicholas A. Migliaccio
MIGLIACCIO & RATHOD LLP

Class Counsel

By: _____

Date: _____

Sharilee Smith

VP of Tax at Tenet Healthcare

BAPTIST HEALTH CENTERS, LLC, d/b/a Cardiovascular Associates

By: _____

Date: _____

Scott A. Elder

ALSTON & BIRD LLP

Counsel for Defendant

By: _____

Date: _____

Jonathan S. Mann

PITTMAN, DUTTON, HELLUMS,

BRADLEY & MANN, P.C.

By: _____

Date: 12/17/25

Hirlye R. "Ryan" Lutz, III

CORY WATSON, P.C.

By: _____

Date: _____

Nicholas A. Migliaccio

MIGLIACCIO & RATHOD LLP

Class Counsel

By: _____

Date: _____

Sharilee Smith

VP of Tax at Tenet Healthcare

BAPTIST HEALTH CENTERS, LLC, d/b/a Cardiovascular Associates

By: _____

Date: _____

Scott A. Elder

ALSTON & BIRD LLP

Counsel for Defendant

By: _____

Date: _____

Jonathan S. Mann

PITTMAN, DUTTON, HELLUMS,

BRADLEY & MANN, P.C.

By: _____

Date: _____

Hirlye R. "Ryan" Lutz, III

CORY WATSON, P.C.

Nicholas A. Migliaccio

By: _____

Date: 12/17/2025

Nicholas A. Migliaccio

MIGLIACCIO & RATHOD LLP

Class Counsel

Samuel Lee

By: _____
Samuel Lee

Date: 12/10/2025

By: _____
Christopher Yates

Date: _____

By: _____
Micah Jones

Date: _____

By: _____
Melvin Elliott

Date: _____

By: _____
Susan Carew

Date: _____

By: _____
Jimmy Tolleson

Date: _____

By: _____
Samuel Lee

Date: _____

By: Christopher Yates
Christopher Yates

Date: 12-14-2025

By: _____
Micah Jones

Date: _____

By: _____
Melvin Elliott

Date: _____

By: _____
Susan Carew

Date: _____

By: _____
Jimmy Tolleson

Date: _____

By: _____
Samuel Lee

Date: _____

By: _____
Christopher Yates

Date: _____

By: *Micah Jones*
Micah Jones

Date: 12-12-2025

By: _____
Melvin Elliott

Date: _____

By: _____
Susan Carew

Date: _____

By: _____
Jimmy Tolleson

Date: _____

By: _____
Samuel Lee

Date: _____

By: _____
Christopher Yates

Date: _____

By: _____
Micah Jones

Date: _____

By: *Melvin Elliott*
Melvin Elliott

Date: 12-10-2025

By: _____
Susan Carew

Date: _____

By: _____
Jimmy Tolleson

Date: _____

By: _____
Samuel Lee

Date: _____

By: _____
Christopher Yates

Date: _____

By: _____
Micah Jones

Date: _____

By: _____
Melvin Elliott

Date: _____

By: _____ *Susan Carew* _____
Susan Carew

Date: 12-08-2025

By: _____
Jimmy Tolleson

Date: _____

By: _____
Samuel Lee

Date: _____

By: _____
Christopher Yates

Date: _____

By: _____
Micah Jones

Date: _____

By: _____
Melvin Elliott

Date: _____

By: _____
Susan Carew

Date: _____

By:  _____
Jimmy Tolleson

Date: 12/11/2025

EXHIBIT A

Cardiovascular Associates Settlement
Administrator
[ADD ADDRESS and WEBSITE]

**Your Claim Form Must Be Submitted
Electronically or Postmarked by [ADD
DATE]**

Samuel Lee, et al. v. Baptist Health Centers, LLC, d/b/a Cardiovascular Associates
Case No. 01-CV-2023-904352.00, Circuit Court of Jefferson County, Alabama

CLAIM FORM

**IN ORDER TO BE VALID, THIS CLAIM FORM MUST BE RECEIVED ONLINE AT
[INSERT WEBSITE] OR POSTMARKED NO LATER THAN [INSERT DATE].**

ATTENTION: This Claim Form is to be used to apply for relief related to the Data Security Incident that occurred between November 28, 2022 and December 5, 2022, and potentially impacted individuals who provided their Personal Information to Defendant. All Settlement Class Members are eligible to receive: (i) three (3) years of Credit and Medical Data Monitoring Services, (ii) compensation for Documented Monetary Losses up to \$5,000, and (iii) a Pro Rata Cash Payment: a pro rata share of the Net Settlement Fund, less all Valid Claims for Documented Monetary Losses and Credit and Medical Data Monitoring, estimated to be not less than \$50.

To submit a Claim, you must have been affected by the Data Security Incident that occurred between November 28, 2022 and December 5, 2022 as a potential Settlement Class Member from Defendant's records and have received Notice of this Settlement with a **unique Claim Number**.

PLEASE BE ADVISED that any documentation you provide in support of your Documented Monetary Losses claim must be submitted **WITH** this Claim Form. No documentation is required for claiming a Pro Rata Cash Payment or the Credit and Medical Data Monitoring Services.

CLAIM VERIFICATION: All Claims are subject to verification. You will be notified if additional information is needed to verify your Claim.

ASSISTANCE: If you have questions about this Claim Form, please visit the Settlement Website at [INSERT] for additional information or call [INSERT PHONE NUMBER].

**PLEASE KEEP A COPY OF YOUR CLAIM FORM AND PROOF OF MAILING FOR
YOUR RECORDS.**

Failure to submit required documentation, or to complete all parts of the Claim Form, may result in denial of the claim, delay its processing, or otherwise adversely affect the claim.

Section C. Part 1 – Pro Rata Cash Payment

Cash Payment: Would you like to receive a cash payment under the Settlement?

Yes

No

** The payments under this option are predicted to be fifty dollars (**\$50**), however, the value of cash payment under this option will be increased or decreased pro rata based on the balance of the Settlement Fund after the payment of other benefits, attorneys' and Settlement Administrator fees and expenses. Settlement Class Members may receive compensation for both Documented Monetary Losses and Pro Rata Cash Payments, subject to a combined monetary benefits cap of \$5,000 per Settlement Class Member.

Section C. Part 2 – Compensation for Documented Monetary Losses

If you incurred costs or expenditures in response to the Data Security Incident, you may be eligible to receive a payment to compensate you for losses.

If it is verified that you meet all the criteria described in the Settlement Agreement and you submit the dollar amount of those losses, you will be eligible to receive a payment compensating you for your losses of up to five thousand dollars (**\$5,000**).

Examples of what can be used to prove your losses include: receipts, account statements, etc. You may also prove losses by submitting information on the Claim Form that describes the expenses and how they were incurred.

Providing adequate proof of your losses does not guarantee that you will be entitled to receive the full amount claimed. All claims will also be subject to an aggregate maximum payment amount, as explained in the Settlement Agreement. If the amount of losses claimed exceeds the maximum amount of money available under the Settlement Agreement, then the payment for your claim will be reduced on a pro rata basis. If you would like to learn more, please review the Settlement Agreement for further details.

Did you incur any expenses or other monetary losses that you believe were as a result of the Data Security Incident? For example, did you sign up and pay for a credit monitoring service, hire and pay for a professional service to remedy identity theft, etc. as a direct result of or attributed to the Data Security Incident?

Yes

No

If yes, you may be eligible to fill out the rest of this form and provide corroborating documentation.

For each monetary loss that you believe can be traced to the Data Security Incident, please provide a description of the loss, the date of the loss, the dollar amount of the loss, and the type of documentation you will be submitting to support the loss. **You must provide this information**

for this claim to be processed. Supporting documentation must be submitted alongside this Claim Form. **If you fail to provide sufficient supporting documents, the Settlement Administrator will deny your claim.** Please provide only copies of your supporting documents and keep all originals for your personal files. The Settlement Administrator will have no obligation to return any supporting documentation to you. A copy of the Settlement Administrator's privacy policy is available at [\[Insert Website\]](#). Please do not directly communicate with Defendant regarding this matter. All inquiries are to be sent to the Settlement Administrator.

Examples of Documented Monetary Losses may include, without limitation, 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 the Data Security Incident through the date of claim submission; and miscellaneous expenses such as notary, fax, postage, copying, mileage, and long-distance telephone charges.

Examples of documentation include receipts for identity theft protection services, etc.

Description of the Loss	Date of Loss	Amount	Type of Supporting Documentation
Example: Unauthorized credit card charge	07 - 17 - 24 MM DD YY	\$50.00	Letter from Bank
Example: Fees paid to a professional to remedy a falsified tax return	02 - 30 - 24 MM DD YY	\$25.00	Copy of the professional services bill
	MM - DD - YY	\$.	
	MM - DD - YY	\$.	
	MM - DD - YY	\$.	
	MM - DD - YY	\$.	
	MM - DD - YY	\$.	
	MM - DD - YY	\$.	
	MM - DD - YY	\$.	
	MM - DD - YY	\$.	
	MM - DD - YY	\$.	
	MM - DD - YY	\$.	
	MM - DD - YY	\$.	
	MM - DD - YY	\$.	
	MM - DD - YY	\$.	
	MM - DD - YY	\$.	

By checking the below box, I hereby declare under penalty of perjury that the information provided in this Claim Form to support relief for Documented Monetary Losses is true and correct.

Yes, I understand that I am submitting this Claim Form and the affirmations it makes as to my seeking relief for Documented Monetary Losses under penalty of perjury. I further understand that my failure to check this box may render my claim for Documented Monetary Losses null and void.

Section D. Payment

Please select the manner in which payment will be issued for your Valid Claims.

- PayPal*: _____ (PayPal Email Address)
- Venmo*: _____ (Venmo Email Address)
- Zelle*: _____ (Zelle Email Address)
- Paper Check via Mail: _____ (Mailing Address)

*If you select payment via PayPal, Venmo or Zelle, the email address entered on this form will be used to process the payment to your account linked to that email address.

Section E. Settlement Class Member Affirmation

I declare under penalty of perjury that the information supplied in this Claim Form is true and correct. I authorize the Settlement Administrator to contact me, using the contact information set forth above, to obtain any necessary supplemental information.

By submitting this Claim Form, I certify that any documentation that I have submitted in support of my Claim consists of unaltered documents in my possession.

Yes, I understand that my failure to check this box may render my Claim null and void.

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

Signature: _____

Print Name: _____

Date: _____

IN ORDER TO BE VALID, THIS CLAIM FORM MUST BE POSTMARKED BY OR RECEIVED ONLINE AT [INSERT WEBSITE] NO LATER THAN [CLAIMS DEADLINE].

EXHIBIT B

NOTICE OF CLASS ACTION SETTLEMENT

Circuit Court of Jefferson County, Alabama, Birmingham Division, Tenth Judicial Circuit
Samuel Lee, et al. v. Baptist Health Centers, LLC, d/b/a Cardiovascular Associates,
 Case No. 01-CV-2023-904352.00

**If your data was exposed to unauthorized third parties in the
 Data Security Incident involving Baptist Health Centers, LLC,
 d/b/a Cardiovascular Associates,
 you may be eligible for a CASH PAYMENT or other benefits under
 a class action settlement.**

A proposed Settlement has been reached in the class action lawsuit titled *Samuel Lee, et al. v. Baptist Health Centers, LLC, d/b/a Cardiovascular Associates*, Case No. 01-CV-2023-904352.00 (the “Action”). The Action asserts claims against Baptist Health Centers, LLC, d/b/a Cardiovascular Associates (“Defendant”) related to the unauthorized access to certain Personal Information on Defendant’s computer systems that occurred between November 28, 2022 and December 5, 2022, about which Defendant notified potentially impacted individuals beginning in February and March of 2023 (the “Data Security Incident”). Plaintiffs alleged that the Data Security Incident resulted in the potential exposure of certain personally identifiable information (“PII”) and protected health information (“PHI”) of Defendant’s current and former patients and employees. Defendant denies all claims of wrongdoing or liability that Plaintiffs, Settlement Class Members, or any others have asserted in this Action or may assert in the future based on the conduct alleged in the Complaint.

The Settlement offers Pro Rata Cash Payments and Credit and Medical Data Monitoring Services to members of the Settlement Class. Settlement Class Members can claim the following Settlement benefits:

- (1) Credit and Medical Data Monitoring: All Participating Settlement Class Members are eligible to enroll in three (3) years of Credit and Medical Data Monitoring Services;
- (2) Compensation for Documented Monetary Losses: The Settlement Administrator, from the Settlement Fund, will provide compensation, up to a total of \$5,000 per person who is a Participating Settlement Class Member; or
- (3) Pro Rata Cash Payment: Participating Settlement Class Members can elect to make a claim for a pro rata share of the Net Settlement Fund, less all Valid Claims for Documented Monetary Losses. Class Counsel predicts the value of pro rata payments will exceed \$50 per valid claimant.

Settlement Class Members may receive compensation for both Documented Monetary Losses and Pro Rata Cash Payments, subject to a combined monetary benefits cap of \$5,000 per Settlement Class Member.

If you are a Settlement Class Member, your options are:

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

<p>SUBMIT A CLAIM FORM DEADLINE: </p>	<p>The only way to receive cash and other benefits from this Settlement is by submitting a valid and timely Claim Form.</p> <p>You can submit your Claim Form online at www.website.com or download the Claim Form from the Settlement Website and mail it to the Settlement Administrator. You may also call or email the Settlement Administrator to receive a paper copy of the Claim Form.</p>
<p>DO NOTHING</p>	<p>You will receive no payment and will no longer be able to sue Defendant over the claims resolved in the Settlement.</p>
<p>EXCLUDE YOURSELF DEADLINE: </p>	<p>You may exclude yourself from this Settlement and keep your right to sue separately. If you exclude yourself, you will receive no Settlement benefits. Exclusion instructions are provided in this Notice.</p>
<p>OBJECT DEADLINE: </p>	<p>If you do not exclude yourself, you may write to the Court to comment on or detail why you do not like the Settlement by following the instructions in this Notice. The Court may reject your objection. You must still file a claim if you desire any monetary relief under the Settlement.</p>
<p>ATTEND A HEARING: </p>	<p>Ask to speak in Court about the Settlement. You may ask the Court for permission to speak about your objection at the Final Approval Hearing.</p>

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court must give Final Approval to the Settlement before it takes effect, but has not yet done so. No payments will be made until after the Court gives Final Approval and any appeals are resolved.

Please review this Notice carefully. You can learn more about the Settlement by visiting www.Settlementwebsite.com or by calling 1-[XXX-XXX-XXXX](tel:XXX-XXX-XXXX).

Further Information About This Notice and the Action

1. Why was this Notice issued?

Settlement Class Members are eligible to receive cash payments and credit and medical data monitoring services from a proposed Settlement in the Action. The Court overseeing the Action authorized this Notice to advise Settlement Class Members about the proposed Settlement that will affect their legal rights. This Notice explains certain legal rights and options Settlement Class Members have in connection with the Settlement.

2. What is the Action about?

The Action is a proposed class action lawsuit brought on behalf of the Settlement Class. The Settlement Class includes “All persons residing in the United States whose Personal Information was accessed by an unauthorized third party as a result of the Data Security Incident discovered by CVA on or about December 5, 2022.”

The PII/PHI alleged to have been exposed in the Data Security Incident includes an individual’s name, date of birth, address, Social Security Number, passport and driver’s license numbers, credit and debit card information, and financial account information.

The Action claims Defendant is legally responsible for the Data Security Incident and asserts various legal claims including (1) Negligence/Wantonness and (2) Negligence *Per Se*.

Defendant denies all claims of wrongdoing or liability that Plaintiffs, Settlement Class Members, or any others have asserted in this Action or may assert in the future based on the conduct alleged in the Complaint.

3. Why is the Action a class action?

In a class action, one or more plaintiffs bring a lawsuit on behalf of others who have similar claims. Together, all these people are the “class,” and each individual is a “class member.” There are six Named Plaintiffs in this case: Samuel Lee, Christopher Yates, Micah Jones, Melvin Elliott, Susan Carew, and Jimmy Tolleson. The class in this case is referred to in this Notice as the “Settlement Class.”

4. Why is there a Settlement?

Plaintiffs and Class Counsel have conducted an investigation into the facts and the law regarding the Action. Plaintiffs and Class Counsel believe that the Settlement is fair, reasonable, and adequate, and beneficial to and in the best interests of Plaintiffs and the Settlement Class. The Court has not decided whether Plaintiffs’ claims or Defendant’s defenses have any merit, and it will not do so if the proposed Settlement is approved. Considering the risks and uncertainties of continued litigation and all factors bearing on the merits of settlement, the Parties are satisfied that the terms and conditions of this Settlement Agreement are fair, reasonable, adequate, and in their respective

best interests. The Settlement does not mean that Defendant did anything wrong, or that the Plaintiffs and the Settlement Class would or would not win the case if it were to go to trial.

Terms of the Proposed Settlement

5. Who is in the Settlement Class?

The Settlement Class is defined by the Court as “All persons residing in the United States whose Personal Information was accessed by an unauthorized third party as a result of the Data Security Incident discovered by CVA on or about December 5, 2022.”

Excluded from the Settlement Class are the Court, the officers and directors of Defendant, persons who have been separately represented by an attorney and entered into a separate settlement agreement in connection with the Data Security Incident, and persons who timely and validly request exclusion from the Settlement Class.

6. What are the terms of the Settlement?

The proposed Settlement would create a non-reversionary common fund amount of \$4,850,000.00 that would be used to pay all costs of the Settlement, including: (i) payments to Settlement Class Members who submit Valid Claims, (ii) Administration and Notice Costs, (iii) any attorneys’ fees and costs awarded by the Court to Class Counsel (not to exceed one third of the total Settlement Fund in attorneys’ fees, and litigation expenses up to \$25,000), and (iv) any Service Awards to the Class Representatives awarded by the Court (not exceed an amount of \$3,500 to each Class Representative). The Settlement also releases all claims or potential claims of Settlement Class Members against Defendant arising from or related to the Data Security Incident, as detailed in the Settlement Agreement and Release.

7. What claims are Settlement Class Members giving up under the Settlement?

Any Settlement Class Member who does not file a timely Request for Exclusion in accordance with this Paragraph will lose the opportunity to exclude himself or herself from the Settlement and will be bound by the Settlement. The claims that Settlement Class Members are releasing are described in the Settlement Agreement and Release.

Settlement Benefits Available to Settlement Class Members

8. What benefits can Settlement Class Members receive?

Settlement Class Members who submit Valid Claims and any required documentation may receive one or more of the following: (i) three (3) years of Credit and Medical Data Monitoring Services, (ii) compensation for Documented Monetary Losses up to \$5,000, and (iii) a Pro Rata Cash Payment: a pro rata share of the Net Settlement Fund, less all valid claims for Documented Monetary Losses and Credit and Medical Data Monitoring, estimated to be not less than \$50.

Depending on how many Valid Claims are submitted, the amounts of the Pro Rata Cash Payments will be adjusted upward or downward proportionally among Settlement Class Members submitting Valid Claims for those awards, as explained further below in Question 11.

9. What are Documented Monetary Losses?

The Settlement Administrator, from the Settlement Fund, will provide compensation, up to a total of \$5,000 per person who is a Participating Settlement Class Member, upon submission of a Claim and supporting documentation, for unreimbursed ordinary and/or extraordinary monetary losses incurred as a result of the Data Security Incident, including, without limitation, unreimbursed losses relating to fraud or identity theft; professional fees including attorneys' fees, accountants' fees, 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 the Data Security Incident through the date of claim submission; and miscellaneous expenses such as notary, fax, postage, copying, mileage, and long-distance telephone charges.

Participating Settlement Class Members with ordinary and/or extraordinary monetary losses must submit documentation supporting their Claim. This can include receipts or other documentation not "self-prepared" by the claimant that document the costs incurred. "Self-prepared" documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but can be considered to add clarity or support other submitted documentation.

10. What is the Pro Rata Cash Payment?

Every Settlement Class Member is eligible to receive a Pro Rata Cash Payment share of the Net Settlement Fund, less all Valid Claims for Documented Monetary Losses and Credit and Medical Data Monitoring Services. To receive this benefit, Participating Settlement Class Members must submit a valid Claim Form, but no documentation is required to make a Claim. The amount of the cash payments will be increased or decreased on a *pro rata* basis, depending upon the number of Valid Claims filed and the amount of funds available for these payments. Class Counsel predicts the value of Pro Rata Cash Payments will exceed \$50 per valid claimant. The Pro Rata Cash Payment is subject to upward or downward adjustment as described below in Question 11.

Eligibility for any award and the validity of your Claim, including the Pro Rata Cash Payment, will be determined by the Settlement Administrator as outlined in Question 15.

11. When and how will the amount of Settlement payments be adjusted?

The amounts paid for all Pro Rata Cash Payments will be adjusted upward or downward from the amounts listed in Question 10 depending on how many Settlement Class Members submit Valid Claims.

If the total dollar value of all Valid Claims is less than the amount of money available in the Settlement Fund for payment of those Claims, the amounts for Pro Rata Cash Payments will be adjusted upward proportionally among all Valid Claims for those awards, until the amounts remaining in the Settlement Fund are exhausted (or as nearly as possible).

If the total dollar value of all Valid Claims is more than the amount of money available in the Settlement Fund for payment of those Claims, the amount of the payments for Pro Rata Cash Payments will be adjusted downward proportionally among all Settlement Class Members who submitted Valid Claims for Pro Rata Cash Payments.

Class Members may receive compensation for both Documented Monetary Losses and Pro Rata Cash Payments, subject to a combined monetary benefits cap of \$5,000 per Class Member.

12. What happens after all Claims are processed and there are funds remaining?

The funds remaining in the Settlement Fund after completion of these disbursements and after the time for cashing and/or depositing checks has expired will be Remainder Funds. The Remainder Funds will be sent to the Alabama Civil Justice Foundation, a not-for-profit charitable organization which was jointly proposed by the Parties and approved by the Court, as a *cy pres* distribution.

Your Options as a Settlement Class Member

13. If I am a Settlement Class Member, what options do I have?

If you are a Settlement Class Member, you do not have to do anything to remain in the Settlement. In order to receive payment from the Settlement, you must submit a valid Claim Form.

If you do not want to give up your right to sue Defendant about the Data Security Incident or the issues raised in this case, you must exclude yourself (or “opt out”) from the Settlement Class. See Question 16 below for instructions on how to exclude yourself.

If you wish to object to the Settlement, you must remain a Settlement Class Member (i.e., you may not also exclude yourself from the Settlement Class by opting out) and submit a written objection. See Question 19 below for instructions on how to submit an objection.

14. What happens if I do nothing?

If you do nothing, you will get no award from this Settlement. Unless you exclude yourself, after the Settlement is granted Final Approval, you will be bound by the judgment and you will never be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendant related to the claims released by the Settlement.

15. Who decides my Settlement Claim and how do they do it?

The Settlement Administrator will decide whether a Claim Form is complete and valid and includes all required documentation. The Settlement Administrator may require additional information from any claimant. Failure to timely provide all required information will invalidate a Claim and it will not be paid.

16. How do I exclude myself from the Settlement?

To opt out of the Settlement, you must submit a Request for Exclusion that must include the name of the proceeding, the individual’s full name, current address, personal signature, and the words “Request for Exclusion” or a comparable statement that the individual does not wish to participate in the Settlement at the top of the communication, or some other clear manifestation of the intent to opt out of the Settlement in the written communication. Each Request for Exclusion must request exclusion only for that one individual whose personal signature appears on the request. You must mail your request to this address:

CVA Settlement Administrator
PO Box XXX
CITY, ST ZIP

Your request must be submitted online or postmarked by **[OPT-OUT DEADLINE]**.

17. If I exclude myself, can I receive any payment from this Settlement?

No. If you exclude yourself, you will not be entitled to any award under the Settlement. However, you will also not be bound by any judgment in this Action.

18. If I do not exclude myself, can I sue Defendant for the Data Security Incident later?

No. Unless you exclude yourself, you give up any right to sue Defendant 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 requesting a payment.

19. How do I object to the Settlement?

All Settlement Class Members who do not opt out from the Settlement Class have the right to object to the Settlement or any part of it. You can ask the Court to deny approval by filing an objection. You can’t ask the Court to order a different settlement; the Court can only approve or reject the Settlement. If the Court denies approval, no Settlement Payments will be sent out and the Action will continue. If that is what you want to happen, you must object.

Any objection to the proposed Settlement must be in writing and your objection and any supporting papers must be mailed to this address:

CVA Settlement Administrator
PO Box XXX
CITY, ST ZIP

Your objection must be filed or postmarked no later than the Objection Deadline, **[OBJECTION DEADLINE]**.

To be considered by the Court, your written objection must include: (i) the name of the proceeding; (ii) the Settlement Class Member's full name, current mailing address, and telephone number; (iii) a statement that states with specificity the grounds for the objection, as well as any documents supporting the objection; (iv) a statement as to whether the objection applies only to the objector, to a specific subset of the class, or to the entire class; (v) the identity of any attorney representing the objector; (vi) a statement regarding whether the Settlement Class Member (or his/her attorney) intends to appear at the Final Approval Hearing; and (vii) the signature of the Settlement Class Member or the Settlement Class Member's attorney.

If you submit a timely written objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney.

Court Approval of the Settlement

20. How, when, and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing to decide whether to approve the Settlement. That hearing is scheduled for _____, 2026 at _____ a.m./p.m. at the Circuit Court of Jefferson County Alabama, Birmingham Division, Tenth Judicial Circuit <<address>>. At the Final Approval Hearing, the Court will consider whether the Settlement Agreement is fair, reasonable, and adequate, was entered into in good faith and without collusion, and approves and directs consummation of this Settlement Agreement. If there are timely objections, the Court will consider them and will listen to people who have properly requested to speak at the hearing. The Court may also consider Class Counsel's request for attorneys' fees, costs, and expenses, and the request for Service Awards for the Class Representatives. After the hearing, the Court will decide whether to approve the Settlement.

It is possible the Court could reschedule the hearing to a different date or time without notice, so it is a good idea before the hearing to check www.SettlementWebsite.com to confirm the schedule if you wish to attend.

21. Do I have to attend the hearing?

No. You do not need to attend the hearing unless you object to the settlement and wish to appear in person. It is not necessary to appear in person in order to make an objection; the Court will consider any written objections properly submitted according to the instructions in Question 19. You or your own lawyer are welcome to attend the hearing at your expense, but are not required to do so.

22. What happens if the Court approves the settlement?

If the Court approves the Settlement and no appeal is taken, the Settlement Fund will be fully funded. The Settlement Administrator will pay any Fee Award and Costs and any Service Awards from the Settlement Fund. Then, the Settlement Administrator will send Settlement Payments and

Credit and Medical Data Monitoring Services to Settlement Class Members who submitted timely and valid Claim Forms.

If any appeal is taken, it is possible the Settlement could be disapproved on appeal.

23. What happens if the Court does not approve the settlement?

If the Court does not approve the Settlement, there will be no Settlement Payments to Settlement Class Members, Class Counsel, or the Plaintiffs, and the case will proceed as if no Settlement had been attempted.

Lawyers for the Settlement Class and Defendant

24. Who represents the Settlement Class?

The Court has appointed the following Class Counsel to represent the Settlement Class in this Action:

Class Counsel	
Jonathan S. Mann Austin B. Whitten PITTMAN, DUTTON, HELLUMS, BRADLEY & MANN P.C. 2001 Park Place North, Suite 1100 Birmingham, AL 35203	Hirlye R. "Ryan" Lutz, III Hunter Phares CORY WATSON, P.C. 2131 Magnolia Avenue South Birmingham, AL 35205
Nicholas A. Migliaccio MIGLIACCIO & RATHOD, LLP 412 H Street NE Washington, D.C. 20002	

Settlement Class Members will not be charged for the services of Class Counsel. Class Counsel will be paid out of the Settlement Fund, subject to Court approval. However, you may hire your own attorney at your own cost to advise you in this matter or represent you in making an objection or appearing at the Final Approval Hearing.

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

Class Counsel will file a Fee Request for an award of attorneys' fees to be paid from the Settlement Fund not to exceed one-third (1/3) of the value of the Settlement, or \$1,616,666.67, and litigation expenses up to \$25,000. Class Counsel will file a Fee Request that will include a request for Service Awards for the Class Representatives in recognition for their contributions to this Action not to exceed \$3,500 per Class Representative (\$21,000 total).

26. Who represents Defendant in the Action?

Defendant is represented by the following counsel:

Defendant's Counsel

Scott A. Elder
Sarah O'Donohue
ALSTON & BIRD LLP
1201 West Peachtree Street
Atlanta, GA 30309
scott.elder@alston.com
sarah.odonohue@alston.com

For Further Information**27. What if I want further information or have questions?**

Go to www.SettlementWebsite.com, call 1-[XXX-XXX-XXXX](tel:XXX-XXX-XXXX), or write to the Settlement Administrator, PO Box [XXXX](tel:XXX-XXX-XXXX), CITY, STATE, ZIP.

Please do not contact the Court or Defendant's Counsel.

EXHIBIT C

Legal Notice

*Samuel Lee, et al. v. Baptist Health Centers, LLC, d/b/a Cardiovascular Associates, Case No. 01-CV-2023-904352.00
Circuit Court of Jefferson County, Alabama, Birmingham Division, Tenth Judicial Circuit*

If your data was exposed to unauthorized third parties in the Data Security Incident involving Baptist Health Centers, LLC d/b/a Cardiovascular Associates, you may be eligible for a CASH PAYMENT or other benefits under a class action settlement.

*An Alabama State Court has authorized this Notice. This is **not** a solicitation from a lawyer.*

A settlement has been reached in a class action lawsuit concerning a Data Security Incident at Baptist Health Centers, LLC d/b/a Cardiovascular Associates (“Defendant”) related to the unauthorized access to certain Personal Information on Defendant’s computer systems that occurred between November 28, 2022 and December 5, 2022 (the “Data Security Incident”). The Settlement would resolve a lawsuit in which Plaintiffs allege that the Data Security Incident exposed individuals’ personally identifiable information (“PII”) and protected health information (“PHI”), including name, date of birth, address, Social Security Number, passport and driver’s license numbers, credit and debit card information, and financial account information. Defendant denies all claims of wrongdoing or liability that Plaintiffs, Settlement Class Members, or any others have asserted in this Litigation or may assert in the future based on the conduct alleged in the Complaint.

For more information on the proposed settlement, including how to submit a claim, exclude yourself, or submit an objection, please visit www.SettlementWebsite.com or call [1-XXX-XXX-XXXX](tel:1-XXX-XXX-XXXX).

Cardiovascular Associates Settlement Administrator
PO Box XXXXX
CITY, STATE 70821

ELECTRONIC SERVICE REQUESTED

SETTLEMENT CLAIM [ID]
[FIRST NAME] [LAST NAME]
[ADDRESS]
[ADDRESS]
[CITY] [STATE] [ZIP]

Who is included in the Settlement? The Settlement Class is defined by the Court as “All persons residing in the United States whose Personal Information was accessed by an unauthorized third party as a result of the Data Security Incident discovered by CVA on or about December 5, 2022.”

What are the Settlement benefits? Settlement Class Members who submit Valid Claims and any required documentation may receive one or more of the following, to be paid from the \$4,850,000.00 Settlement Fund: (i) three (3) years of Credit and Medical Data Monitoring Services, (ii) compensation for Documented Monetary Losses up to \$5,000, and (iii) a Pro Rata Cash Payment: a pro rata share of the Net Settlement Fund, less all Valid Claims for Documented Monetary Losses and Credit and Medical Data Monitoring, estimated to be not less than \$50. Visit the Settlement Website or call the toll-free number below for complete benefit details.

How do I receive a payment or other benefit? To receive any payments or benefits under the Settlement, you **MUST** submit a claim. To submit a claim, you may either: (i) fill out, detach, and mail the attached Postcard Claim Form to the Settlement Administrator; or (ii) submit a Claim Form online at [www. \[REDACTED\].com](#). You may also call [\[InsertPhoneNumber\]](#) to request that a Claim Form be mailed to you. **Claims must be submitted online or postmarked by [REDACTED], 202 [REDACTED].**

What are my other options? If you **Do Nothing**, you will be legally bound by the terms of the Settlement, and you will release your claims against Defendant and other Released Parties as defined in the Settlement Agreement. If you do not want to be legally bound by the Settlement, you must **Exclude Yourself** by [\[REDACTED\], 202 \[REDACTED\]](#), or you will not be able to sue the Defendant for Released Claims relating to the Data Security Incident. If you exclude yourself, you cannot get money or benefits from this Settlement. If you want to **Object** to the Settlement, you may file an objection by [\[REDACTED\], 202 \[REDACTED\]](#). The detailed Notice explains how to submit a Claim Form, exclude yourself, or object.

Do I have a lawyer in this case? Yes, the Court appointed several law firms as Class Counsel to represent members of the Settlement Class, including Pittman, Dutton, Hellums, Bradley & Mann P.C., Cory Watson, P.C., and Migliaccio & Rathod, LLP. The full list of Class Counsel is included in the Long Form Notice posted on the Settlement Website. If you want to be represented by your own lawyer, you may hire one at your own expense.

When will the Court decide whether to approve the Settlement? The Court will hold a hearing in this case on [\[REDACTED\], 2026](#) at the Circuit Court of Jefferson County Alabama, Birmingham Division, Tenth Judicial Circuit, <<address>> to consider whether to approve the Settlement. The Court will also consider Class Counsel’s request for attorneys’ fees of up to one-third of the Settlement Fund (or \$1,616,666.67) and reimbursement of litigation expenses of no more than \$25,000 for litigating the case and negotiating the Settlement on behalf of the Class, and Service Awards of \$3,500 for each of the Named Plaintiffs. You may attend the hearing, but you do not have to.

For more information, call toll-free [\[InsertPhoneNumber\]](#) or visit [\[InsertWebsiteLink\]](#) and read the detailed Notice.

POSTCARD CLAIM FORM -- MEMBER ID: [claim Id]

To submit a claim for Credit and Medical Data Monitoring and/or a Pro Rata Cash Payment, please complete the **below form**, sign, and mail this portion of the postcard to the Settlement Administrator **by no later than** **2026**. Please complete the Claim Form for each category of benefits that you would like to claim. **You may claim one or both options.**

Note: Claims for Documented Monetary Losses require supporting documentation and therefore must be submitted online at www.SettlementWebsite.com or mailed to the Settlement Administrator with a separate Claim Form.

Contact Information *(Please fill in completely.)*

Name: _____ Telephone Number: _____

Address: _____

City, State, Zip Code: _____

Email Address: _____

Credit and Medical Data Monitoring

To receive the credit and medical data monitoring services and identity theft protection insurance offered as part of the Settlement, please check the box below:

I would like to claim three (3) years of credit and medical data monitoring and identity theft protection insurance provided by **(Provider)** at no cost to me.

Pro Rata Cash Payment

Would you like to receive a pro rata cash payment (estimated to be at least \$50)? **Yes** **No**

SIGN AND DATE YOUR CLAIM FORM

I declare under penalty of perjury that the information supplied in this Claim Form is true and correct. I authorize the Settlement Administrator to contact me, using the contact information set forth above, to obtain any necessary supplemental information.

Signature: _____ Date (mm/dd/yyyy): _____ Print Name: _____

The deadline to submit this form is [_____, ____], 2026.

Questions? Visit www.SettlementWebsite.com or call (____) _____

EXHIBIT D

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
BIRMINGHAM DIVISION**

**SAMUEL LEE, CHRISTOPHER YATES,)
MICAH JONES, MELVIN ELLIOTT, SUSAN)
CAREW, and JIMMY TOLLESON,)
individually and on behalf of all)
others similarly situated,)**

Case No.: 01-CV-2023-904352.00

Plaintiffs,

v.

**BAPTIST HEALTH CENTERS, LLC,)
d/b/a CARDIOVASCULAR ASSOCIATES,)**

Defendant.

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

WHEREAS, the above-styled Action was filed on December 1, 2023 against Defendant Baptist Health Centers, LLC, d/b/a Cardiovascular Associates (“CVA” or “Defendant”), and Plaintiffs Samuel Lee, Christopher Yates, Micah Jones, Melvin Elliott, Susan Carew, and Jimmy Tolleson (“Plaintiffs”), individually and on behalf of all others similarly situated, reached an agreement with Defendant settling their related claims (“Settlement”), as set forth in more detail in the Settlement Agreement and Release (“Settlement Agreement”);

WHEREAS, Plaintiffs, individually and on behalf of all others similarly situated, and the proposed Settlement Class (defined below), and Defendant (collectively, the “Settling Parties”), have entered into a Settlement Agreement resolving the Action, subject to Court approval;

WHEREAS, the Action was settled as a result of arm’s-length negotiations overseen by a neutral third-party mediator; investigation, informal discovery, and formal discovery sufficient to

permit counsel and the Court to act knowingly; and counsel are well experienced in similar class action litigation; and

WHEREAS, Plaintiffs, as the proposed Class Representatives, have moved the Court for entry of an Order Granting Preliminary Approval of Class Action Settlement and Conditionally Certifying Settlement Class (“Preliminary Approval Order”) approving the Settlement, conditionally certifying the Settlement Class for settlement purposes only, and approving the form and method of Notice upon the terms and conditions set forth in the Settlement Agreement, together with all exhibits thereto.

WHEREAS, all proceedings in the Action, other than proceedings necessary to carry out or enforce the terms and conditions of the Settlement Agreement and this Preliminary Approval Order, are hereby stayed.

WHEREAS, the Court having considered the Settlement Agreement, together with all exhibits thereto, the records in this case, and the arguments of counsel and for good cause appearing, **HEREBY ORDERS** as follows:

I. CONDITIONAL CERTIFICATION OF THE SETTLEMENT CLASS

1. Plaintiffs’ Motion for Preliminary Approval of the Class Action Settlement is **GRANTED**. The terms defined in the Settlement Agreement shall have the same meanings in this Preliminary Approval Order.

2. Having made the findings set forth below, the Court conditionally certifies the following Settlement Class for settlement purposes only:

All persons residing in the United States whose Personal Information was accessed by an unauthorized third party as a result of the Data Security Incident discovered by CVA on or about December 5, 2022.

3. Excluded from the Settlement Class are the Court, the officers and directors of Defendant, persons who have been separately represented by an attorney and entered into a separate settlement agreement in connection with the Data Security Incident, and persons who timely and validly request exclusion from the Settlement.

4. For Settlement purposes only, with respect to the Settlement Class, the Court preliminary finds the prerequisites for a class action pursuant to Alabama Rule of Civil Procedure 23 have been met, in that: (a) the Settlement Class is so numerous that joinder of all individual Settlement Class members in a single proceeding is impracticable; (b) questions of law and fact common to all Settlement Class Members predominate over any potential individual questions; (c) the claims of the Plaintiffs are typical of the claims of the Settlement Class; (d) Named Plaintiffs and proposed Class Counsel will fairly and adequately represent the interests of the Settlement Class; and (e) a class action is the superior method to fairly and efficiently adjudicate this controversy.

5. The Court hereby appoints Plaintiffs Samuel Lee, Christopher Yates, Micah Jones, Melvin Elliott, Susan Carew, and Jimmy Tolleson as Class Representatives for the Settlement Class.

6. The Court hereby appoints Pittman, Dutton, Hellums, Bradley & Mann P.C., Cory Watson, P.C., and Migliaccio & Rathod LLP as Class Counsel.

II. PRELIMINARY APPROVAL OF SETTLEMENT AGREEMENT

7. The terms of the Settlement, including its proposed Release, are preliminarily approved as within the range of fair, reasonable, and adequate; are sufficient to warrant providing notice of the Settlement to the Settlement Class in accordance with the Notice Program; and are subject to further and final consideration at the Final Approval Hearing provided for below. In

making this determination, the Court considered the fact that the Settlement is the product of arm's-length negotiations facilitated by a neutral mediator and conducted by experienced and knowledgeable counsel, the current posture of the Action, the benefits of the Settlement to the Settlement Class, and the risks and benefits of continuing litigation to the Settling Parties and the Settlement Class.

8. As provided for in the Settlement Agreement, if the Court does not grant Final Approval of the Settlement or if the Settlement is terminated or cancelled in accordance with its terms, then the Settlement, and the conditional certification of the Settlement Class for settlement purposes only provided for herein, will be vacated and the Action shall proceed as though the Settlement Class had never been conditionally certified for settlement purposes only, with no admission of liability or merit as to any issue, and no prejudice or impact as to any party's position on the issue of class certification or any other issue in the case.

III. NOTICE OF THE SETTLEMENT TO THE SETTLEMENT CLASS

9. The Court appoints EisnerAmper as the Settlement Administrator. The responsibilities of the Settlement Administrator are set forth in the Settlement Agreement.

10. The Court has considered the Notice provisions of the Settlement, the Notice Program set forth in the Settlement Agreement, and the Long Form Notice and Short Form Notice, attached as Exhibits B and C to the Settlement Agreement, respectively, and as further defined in the Settlement Agreement. The Court finds that the direct mailing of the Postcard Notice in the manner set forth in the Notice Program is the best notice practicable under the circumstances, constitutes due and sufficient notice of the Settlement and this Preliminary Approval Order to all persons entitled thereto, and is in full compliance with applicable law and due process. The Court approves as to form and content the Long Form Notice and Short Form Notice in the forms

attached as Exhibits B and C, respectively, to the Settlement Agreement. The Court orders the Settlement Administrator to commence the Notice Program following entry of this Preliminary Approval Order in accordance with the terms of the Settlement Agreement.

11. The Court approves as to form and content the Claim Form attached as Exhibit A to the Settlement Agreement.

12. Settlement Class Members who qualify for and wish to submit a Claim Form under the Settlement shall do so in accordance with the requirements and procedures of the Settlement Agreement and the Claim Form under which they are entitled to seek relief. The Claims Deadline is 90 days after the Notice Date. All Settlement Class Members who fail to submit a Claim in accordance with the requirements and procedures of the Settlement Agreement and respective 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 of the Settlement and the releases contained therein.

IV. REQUESTS FOR EXCLUSION FROM THE SETTLEMENT CLASS

13. Each person wishing to opt out of the Settlement Class must submit a Request for Exclusion to the Settlement Administrator. The written notice must include the individual's full name, current address, personal signature, and the words "Request for Exclusion" or a comparable statement that the individual does not wish to participate in the Settlement at the top of the communication, or some other clear manifestation of the intent to opt out of the Settlement. To be effective, written notice must be postmarked no later than 60 days after the Notice Date.

14. Persons who submit valid and timely notices of their intent to be excluded from the Settlement Class shall neither receive any benefits of nor be bound by the terms of the Settlement.

15. Persons falling within the definition of the Settlement Class who do not timely and validly request to be excluded from the Settlement Class shall be bound by the terms of the Settlement, including its releases, and all orders entered by the Court in connection therewith.

V. OBJECTIONS

16. Each Settlement Class Member desiring to object to the Settlement Agreement shall submit a timely written notice of his or her objection by the Objection Deadline. Such notice shall state: (i) the name of the proceeding; (ii) the Settlement Class Member's full name, current mailing address, and telephone number; (iii) a statement that states with specificity the grounds for the objection, as well as any documents supporting the objection; (iv) a statement as to whether the objection applies only to the objector, to a specific subset of the class, or to the entire class; (v) the identity of any attorney representing the objector; (vi) a statement regarding whether the Settlement Class Member (or his/her attorney) intends to appear at the Final Approval Hearing; and (vii) the signature of the Settlement Class Member or the Settlement Class Member's attorney.

17. To be timely, written notice of an objection in appropriate form must be mailed to the Settlement Administrator at the address set forth in the Notice, and postmarked no later than the Objection Deadline, 60 days after the Notice Date.

18. Unless otherwise ordered by the Court, any Settlement Class Member who does not timely object in the manner prescribed above shall be deemed to have waived all such objections and shall forever be foreclosed from making any objection to the fairness, adequacy, or reasonableness of the Settlement, including its releases, the Final Approval Order and Judgment approving the Settlement, and Class Counsel's motion for a Fee Award and Costs and Class Representative Service Awards.

VI. THE FINAL APPROVAL HEARING

19. The Court will hold a Final Approval Hearing on [Date], at [Time], in the Courtroom of the Honorable Javan Patton Crayton, Circuit Court of Jefferson County, Alabama, Birmingham Division, Tenth Judicial Circuit, 716 Richard Arrington Jr. Blvd. N., Room 650, Birmingham, Alabama 35203, to consider: (a) whether certification of the Settlement Class for settlement purposes only should be confirmed; (b) whether the Settlement should be approved as fair, reasonable, adequate and in the best interests of the Settlement Class; (c) the application by Class Counsel for an award of attorneys' fees, costs, and expenses as provided for under the Settlement Agreement; (d) the application for Named Plaintiffs' Service Awards as provided for under the Settlement Agreement; (e) whether the release of Released Claims as set forth in the Settlement Agreement should be provided; (f) whether the Court should enter the [Proposed] Final Approval Order and Judgment; and (g) ruling upon such other matters as the Court may deem just and appropriate. The Final Approval Hearing may, from time to time and without further notice to Settlement Class Members, be continued or adjourned by order of the Court.

20. No later than 14 days prior to the Final Approval Hearing, the Plaintiffs shall file their Motion for Final Approval of Class Action Settlement and their Motion for Attorneys' Fees, Reimbursement of Litigation Expenses and Class Representative Service Awards.

21. The related time periods for events preceding the Final Approval Hearing are as follows:

SETTLEMENT TIMELINE

<u>Grant of Preliminary Approval</u>	MONTH XX, 202X
CVA provides list of Settlement Class Members to the Settlement Administrator	7 days after Preliminary Approval
Notice Date	30 days after Preliminary Approval
Class Counsel's Motion for Attorneys' Fees, Reimbursement of Litigation Expenses, and Class Representative Service Awards	14 days before Objection and Opt-Out Deadlines
Objection Deadline	60 days after Notice Date
Opt-Out Deadline	60 days after Notice Date
Claims Deadline	90 days after Notice Date
Motion for Final Approval	14 days before Final Approval Hearing Date
Settlement Administrator Provides Court Notice of Opt-Outs and/or Objections (via declaration supporting Plaintiffs' Motion for Final Approval)	14 days before Final Approval Hearing Date
<u>Final Approval Hearing</u>	120 days after Preliminary Approval Order (at minimum)

22. Any action brought by a Settlement Class Member concerning a Released Claim shall be stayed pending Final Approval of the Settlement.

IT IS SO ORDERED.

Dated:

CIRCUIT JUDGE

EXHIBIT 2

3. I am admitted to practice before all courts of the State of Alabama. I have also been admitted to practice before the United States Court of Appeals for the Eleventh Circuit, the United States District Court for the Northern District of Alabama, the United States District Court for the Middle District of Alabama, the United States District Court for the Southern District of Alabama, the United States District Court for the Northern District of Florida, the United States District Court for the Northern District of Georgia, the United States District Court for the Northern District of Indiana, the United States District Court for the Southern District of Indiana, the United States District Court for the Eastern District of Louisiana, the United States District Court for the District of Maryland, the United States District Court for District of Massachusetts, the United States District Court for the District of Minnesota, the United States District Court for the District of New Jersey, the United States District Court for the Eastern District of New York, the United States District Court for the Southern District of New York, the United States District Court for the District of Montana, the United States District Court for the Eastern District of Pennsylvania, the United States District Court for the Eastern District of Texas, and the Superior Court of Los Angeles County, California.

4. I and other PDHBM lawyers have been appointed to leadership positions in the following class actions and multidistrict litigations (MDLs) over the past ten years, including *In re Blue Cross Blue Shield Antitrust Litigation*, MDL No. 2406 (Local Facilitating Counsel for Subscriber Plaintiffs); *In re Stryker Rejuvenate and ABG II Hip Implant Products Liability Litigation*, MDL No. 2441 (Plaintiffs' Steering Committee); *In re Community Health Systems, Inc., Customer Data Security Breach Litigation*, MDL No. 2595, (Local Liaison Counsel); *In re Abilify (Aripiprazole) Products Liability Litigation*, MDL No. 2734 (Plaintiffs' Steering Committee); *In re: Arby's Restaurant Group, Inc. Data Security Litigation*, No. 1:17-cv-514-AT

(Financial Institution Plaintiffs' Steering Committee); *In re Davol, Inc./C.R. Bard, Inc. Polypropylene Hernia Mesh Products Liability Litigation*, MDL No. 2846 (Plaintiffs' Steering Committee); *In re Valsartan Products Liability Litigation*, MDL No. 2875 (Plaintiffs' Steering Committee); *In re 3M Combat Arms Earplug Products Liability Litigation*, MDL No. 2885 (Common Benefit Fund Committee); *In re Paragard IUD Products Liability Litigation*, MDL No. 2974 (Plaintiffs' Steering Committee); *In re 3M Combat Arms Earplug Products Liability Litigation*, MDL No. 2885 (Settlement Implementation and Administration Committee); *In re Snowflake, Inc. Data Security Breach Litigation*, MDL 3126 (Financial Institution Spoke Co-Lead); and *In re Depo-Provera (Depot Medroxyprogesterone Acetate) Products Liability Litigation*, MDL 3140 (Plaintiffs' Executive and Steering Committees).

5. I and other PDHBM attorneys have been appointed as settlement class counsel in other data breach cases such as *Williams v. Gulf Coast Pain Consultants, LLC d/b/a Clearway Pain Solutions Institute*, Case No. 3:19-cv-01659 (N.D. Fla.); *Limbaugh, et al. v. Norwood Clinic, Inc.*, Circuit Court, Jefferson Cty., Ala., Case No. 01-cv-2022-900851; *Kemp, et al. v. NorthStar Emergency Medical Services, Inc.*, Circuit Court, Tuscaloosa Cty., Ala., Case No. 63-cv-2023-900249; *Hufstetler, et al. v. Upstream Rehabilitation, Inc.*, Circuit Court, Jefferson Cty., Ala., Case No. 01-cv-2024-902563.33; *Sides, et al. v. Sheffield Group, Inc., et al.*, Circuit Court, Jefferson Cty., Ala., Case No. 01-cv-2024-900745.00; *In re Christie's Data Breach Litigation*, Case No. 23-cv-4221-JMF (S.D.N.Y.); *Brown, et al. v. Alabama Cardiology Group, P.C.*, Circuit Court, Jefferson Cnty., Ala., Case No. 01-cv-2024-903135; *Kornegay, et al. v. Heart South Cardiovascular Group, P.C.*, Circuit Court, Bibb Cty., Ala., Case No. 07-cv-2024-9000089; *In re Arby's Restaurant Group, Inc. Data Security Litigation*, 1:17-cv-514 (N.D. Ga.); and *Winsouth Credit Union v. MAPCO Express, Inc. and Delek US Holdings, Inc.*, 3:14-cv-1753 (M.D. Tn.).

6. I am other PDHBM lawyers have either been appointed as settlement class counsel or have been counsel of record in other class actions in the past few years, which have resolved favorably, including *Bach Enterprises, Inc. v. Advanced Disposal Services South, Inc.*, Circuit Court, Barbour County, Alabama, Case No. 69-cv-2013-9000090, MDL 2406, *In re Blue Cross Blue Shield Antitrust Litigation* (Subscriber Plaintiffs), and *Sullen, et al. v. Vivint, Inc.*, Circuit Court, Jefferson County, Alabama, Case No. 01-cv-2023-903893.

7. I am currently putative class counsel in several pending actions involving data breaches, consumer protection, antitrust and securities fraud claims.

8. The attorneys seeking to be named Class Counsel in this matter— PITTMAN, DUTTON, HELLUMS, BRADLEY, & MANN, P.C., CORY WATSON, P.C., and MIGLIACCIO & RATHOD LLP—have extensive experience in class action litigation generally and data breach class action litigation in particular.

Initial Investigation and Communications

9. This is a putative class action brought by Plaintiffs Samuel Lee, Christopher Yates, Micah Jones, Melvin Elliott, Susan Carew, and Jimmy Tolleson, (“Plaintiffs” or “Class Representatives”), individually and on behalf of all others similarly situated (the “Settlement Class”), arising out of an unauthorized third-party access of certain Cardiovascular Associates’ (“CVA” or “Defendant”) systems between November 28, 2022 and December 5, 2022. In December 2022, CVA conducted an investigation which determined that the unauthorized third party had accessed documents containing Plaintiff and approximately 441,000 Class Members’ personal identifying information (“PII”) and private health information (“PHI”) (collectively “Private Information”) (the “Data Breach”). The Private Information potentially exposed in the Data Breach included individuals’ full names, addresses, telephone numbers, email addresses,

dates of birth, Social Security numbers, Passport and Driver's License numbers, medical and treatment information, billing and claims information, health insurance information, financial account information, and/or credit and debit card information. In or about February and March 2023, CVA began to notify its patients of the Data Breach. In total, approximately 433,348 individuals' Private Information was potentially impacted by the Data Breach.

10. After receiving notice in or about February and March 2023 that their Private Information may have been impacted by the Data Breach, Plaintiffs retained the law firms of Proposed Class Counsel.

11. My team and I vigorously and aggressively gathered all information available regarding CVA and the alleged Data Breach, including publicly available documents concerning announcements of the Data Breach and Notice of the Data Incident that were sent to CVA's current and former patients.

12. Our initial investigation into the facts and circumstances of the alleged Data Breach revealed that the attack against CVA likely involved highly sensitive Private Information belonging to its current and former patients, which information was stored in CVA's computer network.

Procedural Posture

13. After an initial investigation, I (along with other members of my firm) filed a Class Action Complaint (the "Complaint") in the Circuit Court of Jefferson County, Alabama on behalf of Plaintiffs Lee, Yates, Dunn, Jones, Elliott, Carew, and Tolleson, individually and on behalf of all others similarly situated. The Complaint in the instant matter was filed on December 1, 2023. The action asserted several causes of action against CVA, including (1) Negligence; (2) Wantonness; (3) Negligence *Per Se*; (4) Breach of Express and/or Implied Contract; (5) Breach of

Fiduciary Duty; (6) Breach of Confidence; and (7) Unjust Enrichment. Thereafter, Plaintiffs' counsel in the above listed cases organized to work together.

14. Shortly thereafter, on January 3, 2024, CVA filed a Motion to Dismiss, and the Plaintiffs filed an Opposition to Defendant's Motion to Dismiss on February 16, 2024. On February 15, 2024, the Court granted Plaintiffs' Motion to Appoint Interim Co-Lead Class Counsel, appointing Pittman, Dutton, Hellums, Bradley & Mann, P.C. and Cory Watson, P.C. as interim co-lead class counsel. After the Court heard oral argument on Defendant's Motion to Dismiss on March 5, 2024, the Court granted in part and denied in part Defendant's Motion to Dismiss, allowing Plaintiffs' claims for negligence, wantonness, and negligence *per se* to proceed.

15. On November 20, 2024, the Parties participated in a full-day mediation with mediator J. Allen Schrieber of Schrieber ADR in Birmingham, Alabama, but the Parties were unable to reach a resolution.

16. Over the course of dozens of meet and confer communications, Plaintiffs' counsel continued their diligent and significant discovery efforts while simultaneously working at arm's length with Defendant to negotiate a resolution.

The Class Settlement

History of Negotiations

17. The Parties began discussing the potential for resolution of the matter only after more than a year of contentious litigation.

18. The Parties agreed to mediate with J. Allen Schrieber, Esq., a prominent mediator with significant experience handling and resolving class actions, including cases involving data breach and privacy claims.

19. In addition to the litigation discovery, prior to the mediation, the Parties exchanged informal and confirmatory discovery to allow for meaningful evaluation of the claims and to better inform the Parties in preparation of mediation. The discovery produced by CVA included information about the nature and scope of the Data Breach, investigation and remediation efforts of the Data Breach, and the Class size, allowing Plaintiffs' counsel to fully evaluate the strengths and weaknesses of Plaintiffs' cases and to effectively conduct settlement negotiations.

20. Mediation was held on November 20, 2024.

21. In addition to the in-person mediation session, the Parties also conducted multiple telephone conferences in furtherance of their efforts to mediate and resolve this matter.

22. After several rounds of negotiation, the Parties reached an agreement in principle on all material terms of the class settlement.

23. Thereafter, the Parties negotiated the myriad of details regarding the Settlement, circulating drafts back and forth of the Settlement Agreement and its many exhibits. Specifically, in the months following the mediation the Parties diligently negotiated the amount of attorneys' fees and costs that Defendant would pay to Class Counsel (subject to Court approval) and the amount of service awards Defendant would pay to the Class Representatives (also subject to Court approval). At all times, the issue of attorneys' fees, costs, and class representative service awards was negotiated separately from the settlement relief to class members. Like the other negotiations, these negotiations were conducted at arm's length.

24. Plaintiffs also obtained competitive bids from various experienced Settlement Administrators and thereafter, with Defendant's input and approval, elected EisnerAmper Group to act as the Settlement Administrator and Notice Specialist, subject to the Court's approval.

25. The Settlement is the result of prolonged arm's length negotiations, including numerous telephone conferences, as well as emails directly exchanged between experienced counsel who had a comprehensive understanding of the strengths and weaknesses of each party's claims and defenses. Moreover, the Settlement was reached only after Plaintiffs' counsel analyzed information provided by CVA in discovery and performed other research and investigation related to the Data Breach.

26. While the negotiations between Plaintiffs' counsel and CVA's counsel were always collegial, cordial, and professional, there is no doubt that they were adversarial in nature, with both sides forcefully advocating the position of their respective clients.

Settlement Class

27. Under the terms of the Settlement, the Parties agreed to certification of the following Settlement Class for settlement purposes only:

All persons residing in the United States whose Personal Information was accessed by an unauthorized third party as a result of the Data Security Incident discovered by CVA on or about December 5, 2022. ¶ 50.

The Settlement Class specifically excludes the following individuals:

Defendant, Defendant's current or former parents, subsidiaries, divisions, or affiliates, or their respective successors or predecessors, or any entity in which Defendant or its parents has a controlling interest, or any of their current or former officers and directors; all judges presiding over the Action and members of their families; persons who properly execute and file a timely Request for Exclusion from the Settlement Class; persons whose claims in this matter have been finally adjudicated on the merits or otherwise released; Class Counsel and Defendant's counsel; and the legal representatives, successors, and assigns of any such excluded persons. ¶ 51.

28. The Settlement Class consists of approximately 433,348 individuals. ¶ 40.

Settlement Benefits

29. The Settlement negotiated on behalf of the Class will provide direct monetary relief to Settlement Class Members, capped at \$4,850,000.00 in the aggregate, to provide each claimant with either (1) reimbursement for actual out-of-pocket losses up to \$5,000 per person or (2) *pro rata* cash payment. Each claimant may also submit a claim for three (3) years of credit and medical/healthcare data monitoring and at least \$1,000,000 of fraud/identity theft insurance.

- a. Reimbursement of Documented Monetary Losses: The Parties will create a claims process through which all Settlement Class Members may submit a Claim Form for reimbursement of documented monetary losses that are fairly traceable to the Data Security Incident, up to \$5,000 per individual (“Documented Monetary Losses”). Documented Monetary Losses may include, without limitation, 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 the Data Security Incident through the date of claim submission; and miscellaneous expenses such as notary, fax, postage, copying, mileage, and long distance telephone charges. Settlement Class Members with Documented Monetary Losses must submit documentation supporting their claims. This can include receipts or other documentation not “self-prepared” by the claimant that documents the costs incurred. “Self-prepared” documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but can be considered to add clarity or support other submitted documentation.
- b. Credit and Medical Data Monitoring: All Settlement Class Members may submit a claim for three (3) years of credit and medical/healthcare data monitoring (such as CyEx Medical Shield Ultra) and at least \$1,000,000 of fraud/identity theft insurance. Settlement Class Members may use their code to enroll for a period of 12 months (meaning that a Settlement Class Member could enroll up to the end of the first year and have coverage for the full three (3) years). Such coverage and flexibility in enrollment will provide protection for Settlement Class Members against future identity theft. The three-year period will commence when Settlement Class Members use their codes to activate the Credit and Medical Data Monitoring.
- c. Pro Rata Cash Payment: All Settlement Class Members may submit a claim for a *Pro Rata* Cash Payment. The amount of this benefit shall be determined pro rata based on the amount remaining in the Settlement Fund following payment of the Administration and Notice Costs, Taxes and Tax-Related Expenses, approved claims for Documented Monetary Losses, costs of Credit and Medical Data Monitoring, Fee Award and Costs, and Service Awards. There will be no maximum payment amount for Pro Rata Cash Payments.

30. The Settlement Agreement provides that if the aggregate claimed amount exceeds the \$4,850,000.00 aggregate cap, the value of the payments to Settlement Class Members will be reduced on a *pro rata* basis, such that the aggregate value of all payments for these categories does not exceed \$4,850,000.00.

Release

31. The release in this case is tailored to the claims that have been pleaded or could have been pleaded in this case.

32. Released Claims shall not include the right of any Settlement Class Member or any of the Released Parties to enforce the terms of the settlement contained in the Settlement Agreement and shall not include the claims of Settlement Class Members who have timely excluded themselves from the Settlement Class.

Notice

33. This settlement will be administered by EAG, subject to Court approval.

34. All costs associated with the Notice Program will be paid by CVA and such costs will be included in Settlement Benefits as set forth above.

35. Within seven (7) business days after entry of the Preliminary Approval Order, CVA shall provide the Settlement Administrator with the name, address, email, and other contact information that CVA has in its possession for each Settlement Class Member.

36. To reach as many potential Class Members as possible, individual Notice shall be provided by direct mail to all Settlement Class Members for whom Defendant has a valid address. While only the Summary Notice will be mailed to Settlement Class Members, a Long Form Notice will be made available on the Settlement Website. (*See* Ex. A-C to the Settlement Agreement (Claim Form, Short Notice, Long Notice)). The Notice Deadline or Notice Date is the date upon

which Notice is initially disseminated to the Settlement Class by the Claims Administrator, which shall be no later than thirty (30) days after entry of the Preliminary Approval Order.

37. The Parties will request that, after Notice is completed, the Court hold a Final Approval Hearing and grant final approval of the class action settlement.

38. The Notice Program is designed and intended to reach as many potential Settlement Class Members as possible, is the best notice practicable, and is designed to meet all the criteria set forth in Alabama Rule of Civil Procedure 23(c) and the *Manual for Complex Litigation*.

39. As such, the Notice Plan set forth in the Settlement Agreement comports with Alabama Rule of Civil Procedure 23(c) and the United States Constitution and exceeds Due Process requirements.

Claims Process

40. The timing of the claims process is structured to ensure that all Settlement Class Members have adequate time to receive Notice, to review the terms of the Settlement Agreement and other relevant documents and decide whether they would like to make a claim, opt out or object.

41. Individuals in the Settlement Class who are seeking any Settlement Benefits under the Settlement must submit a Claim Form, submitted online or postmarked, on or before the 90th day after the Notice Deadline.

42. The ninety (90) day period to submit claims provides ample time for Settlement Class Members to decide whether to elect a pro-rata payment or make a claim for out-of-pocket losses.

Exclusions

43. Settlement Class Members who seek to be excluded from the Settlement Class must submit a request, in writing, postmarked or received, by the Settlement Administrator on or before the Opt-Out Deadline, which shall be sixty (60) days following the Notice Date.

44. The notice of exclusion must include the name of the proceeding, the individual's full name, current address, personal signature, and the words "Request for Exclusion" or a comparable statement that the individual does not wish to participate in the Settlement at the top of the communication.

45. Requests for exclusion may only be done on an individual basis, and no person may request to be excluded from the Settlement Class through "mass" or "class" opt-outs.

Objections

46. The Notice shall explain the procedure for Settlement Class Members to object to the Settlement by submitting written objections to the Settlement Administrator postmarked no later than sixty (60) days after the Notice Deadline. The written objection must include (i) the name of the proceeding; (ii) the Settlement Class Member's full name, current mailing address, and telephone number; (iii) a statement that states with specificity the grounds for the objection, as well as any documents supporting the objection; (iv) a statement as to whether the objection applies only to the objector, to a specific subset of the class, or to the entire class; (v) the identity of any attorney representing the objector; (vi) a statement regarding whether the Settlement Class Member (or his/her attorney) intends to appear at the Final Approval Hearing; and (vii) the signature of the Settlement Class Member or the Settlement Class Member's attorney. The Notice must set forth the time and place of the Final Approval Hearing (subject to change) and state that any Settlement Class Member who does not file a timely and adequate objection in accordance

with this Paragraph waives the right to object or to be heard at the Final Approval Hearing and shall be forever barred from making any objection to the Settlement.

47. Any Settlement Class Member who fails to comply with the requirements for objecting to the Settlement as provided in the Settlement Agreement shall waive and forfeit any and all rights he or she may have to appear separately and/or to object to the Settlement Agreement and shall be bound by all the terms of the Settlement Agreement and by all proceedings, orders and judgments in the Litigation. The exclusive means for any challenge to the Settlement Agreement shall be through the provisions herein. Without limiting the foregoing, any challenge to the Settlement Agreement, Preliminary Approval Order, Final Approval Order, or Judgment shall be pursuant to appeal under applicable Court rules and not through a collateral attack.

48. Any Class Member who does not make their objection in the manner and by the date set forth in Settlement Agreement shall be deemed to have waived any objections and shall be forever barred from raising such objections in this or any other action or proceeding, absent further order of the Court.

Service Awards, Fees, and Costs

49. The Settlement allows Class Counsel to make an application to the Court for an award of reasonable attorneys' fees, costs, and expenses to be paid by CVA from the Settlement Benefits being administered to the Settlement Class.

50. The Parties did not discuss payment of attorneys' fees, costs, expenses, and service awards until after the substantive terms of the settlement had been agreed upon, other than that CVA would not object to a request for reasonable attorneys' fees, costs, expenses, and service award as may be ordered by the Court.

51. Plaintiffs' counsel intends to apply for an attorneys' fee not to exceed one-third of the total Settlement Fund (or \$1,616,666.67) and reimbursement of costs and expenses up to \$25,000, subject to Court approval. CVA also agrees to pay each named Class Representative a service award in the amount of \$3,500.00 for their services rendered on behalf of the Settlement Class, subject to Court approval.

52. The Service Award is meant to recognize Plaintiffs for their efforts on behalf of the Settlement Class, including providing information for pleadings and settlement discussions, informal discovery responses, engaging with Class Counsel regarding the litigation, participating in the settlement negotiations via telephone or email, and approving the proposed Settlement terms.

53. Plaintiffs' support for the Settlement as fair, reasonable, and adequate is not conditioned upon the Court's award of the requested Service Award. The Parties did not discuss or agree upon the amount of the maximum amount of Service Award for which Plaintiffs as Class Representatives could apply until after the substantive terms of the Settlement had been agreed upon.

54. In the event the Court declines to approve, in whole or in part, the payment of the Service Award in the amount requested, the remaining provisions of the Settlement Agreement shall remain in full force and effect. No decision by the Court, or modification or reversal or appeal of any decision by the Court concerning the amount of the Service Award shall constitute grounds for cancellation or termination of the Settlement Agreement.

55. Plaintiffs have no conflicts of interest with the other members of the Settlement Class, Plaintiffs had their Private Information allegedly compromised in the same Data Breach as the other Settlement Class Members, and Plaintiffs share the Class's interests of maximizing their recovery and preventing future harm.

56. In my opinion, I believe the Settlement is fair, reasonable, and adequate and provides significant benefits for Plaintiffs and the Settlement Class Members.

57. My years of experience representing individuals in complex class actions—including data breach and/or privacy actions—contributed to an awareness of Plaintiffs’ settlement leverage, as well as the needs of Plaintiffs and the proposed Settlement Class. I believe that Plaintiffs would ultimately prevail in the litigation on a class-wide basis. However, I am also aware that a successful outcome is uncertain and would be achieved, if at all, only after prolonged, arduous litigation with the attendant risk of drawn-out appeals. It is my individual opinion, based on my substantial experience, that the Settlement provides significant relief to the Settlement Class Members and warrants the Court’s preliminary approval.

58. I believe this Settlement is a positive resolution for the Settlement Class and falls comfortably within the range of reasonableness and represents a fair and reasonable discount from potential recovery. It is also my opinion that the Claim Form, Summary Notice, and Long Form Notice accurately and plainly explains the Settlement Benefits and how to obtain them, offers a clear opportunity for members of the Settlement Class to exclude themselves if they so choose, and provides a mechanism for the Settlement Class to share their opinions about the Settlement with the Court.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 23rd day of December, in Birmingham, Alabama



Jonathan S. Mann (MAN057)
**PITTMAN, DUTTON, HELLUMS,
BRADLEY & MANN, P.C.**

2001 Park Place North, Suite 1100
Birmingham, AL 35203
Tel: (205) 322-8880
Fax: (205) 328-2711
Email: jonm@pittmandutton.com

*One of the Attorneys for Plaintiffs Samuel
Lee, Christopher Yates, Micah Jones,
Melvin Elliott, Susan Carew, and Jimmy
Tolleson and the Proposed Class*