

**STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG**

**BEVERLY OWENS, KENNETH  
BRENNAN, CHANDRA BROWN,  
ARIANN J-HANNA, NICOLE PYLE,  
MICHAEL YOUNG, NEVSE  
BREWSTER, WESLEY HANSON,  
DONNA SMITH, ANGELA  
STANDERFER, and VICTORIA  
MARKER, individually and on behalf of  
all others similarly situated,**

**Plaintiffs,**

**v.**

**US RADIOLOGY SPECIALISTS, INC.,  
GATEWAY DIAGNOSTIC IMAGING,  
LLC, CHARLOTTE RADIOLOGY, P.A.  
A/K/A CHARLOTTE RADIOLOGY, AND  
AMERICAN HEALTH IMAGING, INC.,**

**Defendants.**

**IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
22 CVS 17797**

**FILED**

**DATE: December 28, 2023  
TIME: 4:35:40 PM  
MECKLENBURG COUNTY  
CLERK OF SUPERIOR COURT  
BY: R. Smith**

**ORDER GRANTING PRELIMINARY  
APPROVAL OF CLASS ACTION  
SETTLEMENT**

Before this Court is Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement ("Motion"). The Court has reviewed the Motion and Settlement Agreement between Plaintiffs and Defendants US Radiology Specialists, Inc. ("US Radiology"), Gateway Diagnostic Imaging, LLC ("Gateway"), Charlotte Radiology, P.A. A/K/A Charlotte Radiology ("Charlotte Radiology"), and American Health Imaging, Inc. ("AHI," collectively "Defendants"). After reviewing Plaintiffs' unopposed request for preliminary approval, this Court grants the Motion and preliminarily concludes that the proposed settlement is fair, reasonable, and adequate.

**IT IS HEREBY ORDERED THAT:**

1. The Settlement Agreement,<sup>1</sup> including the proposed Notice Program and forms of

---

<sup>1</sup> All capitalized terms used in this Order shall have the same meanings as set for in the Settlement

Notice to the Class, the appointment of Sylvia Tompkins, Kenneth Brennan, Chandra Brown, Ariann J-Hanna, Nicole Pyle, Beverly Owens, Michael Young, Nevse Brewster, Wesley Hanson, Donna Smith, Angela Standerfer, and Victoria Marker as the Class Representatives, the appointment of Class Counsel for Plaintiffs and the Class, the approval of Kroll Settlement Administration LLC (“Kroll”) as the Settlement Administrator, the various forms of class relief provided under the terms of the settlement and the proposed method of distribution of settlement benefits, are fair, reasonable, and adequate, subject to further consideration at the Final Approval Hearing described below.

2. The Court does hereby preliminarily and conditionally approve and certify, for settlement purposes, the following Class:

**All natural persons residing in the United States who were sent a Notice Letter notifying them that their Private Information was potentially compromised in the Data Incident.<sup>2</sup>**

The Class specifically excludes: (i) all Persons who timely and validly request exclusion from the Class; (ii) the Judge assigned to evaluate the fairness of this settlement; and (iii) any other Person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity occurrence of the Data Incident or who pleads *nolo contendere* to any such charge.

3. Based on the information provided: the Class is ascertainable; it consists of roughly 1,300,000 Class Members, satisfying numerosity; there are common questions of law and fact, including whether Defendants failed to implement and maintain reasonable security procedures and practices appropriate to the nature and scope of the information they maintained and that was

---

Agreement.

<sup>2</sup> “Data Incident” shall mean the data security incident against Defendants giving rise to the Litigation, as defined in the Settlement Agreement.

compromised in the Data Incident, satisfying commonality; the proposed Class Representatives' claims are typical in that they are members of the Class and allege they have been damaged by the same conduct as the other members of the Class; the proposed Class Representatives and Class Counsel fully, fairly, and adequately protect the interests of the Class; questions of law and fact common to members of the Class predominate over questions affecting only individual members; and a class action is superior to other available methods for the fair and efficient adjudication of this Litigation.

4. The Court appoints Plaintiffs Sylvia Tompkins, Kenneth Brennan, Chandra Brown, Ariann J-Hanna, Nicole Pyle, Beverly Owens, Michael Young, Nevse Brewster, Wesley Hanson, Donna Smith, Angela Standerfer, and Victoria Marker as the Class Representatives.

5. The Court appoints Jean S. Martin of Morgan & Morgan; Terence R. Coates of Markovits, Stock & DeMarco, LLC; Joseph M. Lyon of The Lyon Firm; Brian Gudmundson of Zimmerman Reed; Gerard Stranch of Stranch Jennings; and Mason A. Barney of Siri & Glimstad LLP; and Jason Rathod of Migliaccio & Rathod as Class Counsel.

6. The Court appoints Kroll as the Settlement Administrator.

7. A Final Approval Hearing shall be held before the Court on Friday, May 10, 2024 at 9:30 a.m. via WebEx<sup>3</sup> for the following purposes:

- a. To determine whether the proposed settlement is fair, reasonable, and adequate to the Class and should be approved by the Court;
- b. To determine whether to enter a Final Approval Order, as defined in the Settlement Agreement;
- c. To determine whether the Notice Program conducted was appropriate;
- d. To determine whether the Claims process under the settlement is fair, reasonable

---

<sup>3</sup> WebEx will be available at: <https://nccourts.webex.com/meet/meckcr6310.sh>.

and adequate and should be approved by the Court;

- e. To determine whether the requested Class Representative Service Awards and Class Counsel’s request for attorneys’ fees and litigation expenses should be approved by the Court;
- f. To determine whether the settlement benefits are fair, reasonable, and adequate; and,
- g. To rule upon such other matters as the Court may deem appropriate.

8. The Court approves, as to the form and content, the Notices (including the Short Notice and the Long Form Notice). Furthermore, the Court approves the implementation of the Settlement Website and the proposed methods of direct notice via email or, alternatively, mail and publication notice substantially in the form as presented in the exhibits to the Motion for Preliminary Approval of Class Action Settlement, and finds that such Notice Program meets the requirements of N.C. Gen. Stat. § 1A-1, Rule 23, and due process, and is the best Notice practicable under the circumstances, and shall constitute due and efficient notice to all Persons entitled to Notice.

9. The Court preliminarily approves the following settlement timeline for the purposes of conducting the Notice Program, Settlement Administration, Claims processing, and other execution of the proposed settlement:

**SETTLEMENT TIMELINE**

|   |                           |
|---|---------------------------|
| <b><u>From Order Granting Preliminary Approval</u></b>                                      |                           |
| Defendants provide list of Class Members to the Settlement Administrator                    | +14 days                  |
| Long and Short Notices Posted on the Settlement Website                                     | +60 days                  |
| Notice Date   | +60 days                  |
|   |                           |
| <b><u>From Notice Date</u></b>  |                           |
| Class Counsel’s Motion for Attorneys’ Fees, Reimbursement of Litigation Expenses, and Class | +30 days from Notice Date |

|  |  |
|--|--|
| Representative Service Awards  |  |
| Objection Date   | +60 days from Notice Date  |
| Opt-Out Date   | +60 days from Notice Date  |
| Settlement Administrator Provide List of Objections/Exclusions to the Parties' counsel | +70 days from Notice Date  |
| Claims Deadline  | +90 days from Notice Date  |
|  |  |
| <b><u>Final Approval Hearing</u></b>   | +135 (at minimum) from Order Granting Preliminary Approval                             |
| Motion for Final Approval  | -14 days from Final Approval Hearing   |
|  |  |
| <b><u>From Order Granting Final Approval</u></b>                                       |  |
| Effective Date   | +35 days, assuming no appeal has been taken. See definition of Final in the Agreement. |
| Payment of Attorneys' Fees and Expenses Class Representative Service Awards            | +90 days from Final Approval Order   |
| Payment of Claims to Class Members   | +90 days from Final Approval Order   |
| Settlement Website Deactivation  | +180 days from Effective Date  |

10. To be timely under the settlement, a Claim Form must be either postmarked or received by the Settlement Administrator no later than 90 days after the Notice Date. Class Counsel and the Settlement Administrator will ensure that all specific dates and deadlines are added to the Class Notice and posted on the Settlement Website after this Court enters this Order in accordance with the timeline being keyed on the grant of this Order.

11. Additionally, all requests to opt out or object to the proposed settlement must be received by the Settlement Administrator no later than 60 days after the Notice Date. Any request to opt out of the settlement should, to the extent possible, contain words or phrases such as “opt-out,” “opt out,” “exclusion,” or words or phrases to that effect indicating an intent not to participate in the settlement or be bound by this Agreement. Opt-out notices shall not be rejected simply because they were inadvertently sent to the Court or Class Counsel so long as they are timely postmarked or received by the Court, Kroll, or Class Counsel. Class Members who seek to opt out shall receive none of the benefits or compensation awarded under this Agreement.

12. Class Members may submit an objection to the proposed settlement under N.C. Gen. Stat. § 1A-1, Rule 23. For an objection to be valid, it must be filed with the Court, through the Court's ECF system or submitting them to the Clerk of Court, and written notice of the objection in the appropriate form must be mailed to Terence R. Coates of Markovits, Stock & DeMarco, LLC, 119 E. Court St. Suite 530, Cincinnati, OH 45202, as Class Counsel and Casie D. Collignon and Sarah A. Ballard, Baker & Hostetler LLP, 1801 California Street, Suite 4400, Denver, Colorado 80202 as counsel for Defendants, both filed and postmarked no more than 60 days after the Notice Date and include each and all of the following:

- (i) his/her full name, address, and current telephone number;
- (ii) the name and number of this case;
- (iii) information identifying the objector as a Class Member, including proof that the objector is a member of the Class (e.g., copy of the objectors settlement notice, copy of original Notice Letter of the Data Incident, or a statement explaining why the objector believes he or she is a Class Member);
- (iv) a written statement of all grounds for the objection, with factual and legal support for the stated objection, including any supporting materials;
- (v) the identification of any other objections he/she has filed, or has had filed on his/her behalf, in any other class action cases in the last four years; and,
- (vi) the objector's signature.

If represented by counsel, the objecting settlement Class Member must also provide the name and telephone number of his/her counsel. If the objecting settlement Class Member intends to appear at the Final Approval Hearing, either with or without counsel, he/she must state as such in the written objection, and must also identify any witnesses he/she may call to testify at the Final

Approval Hearing and all exhibits he/she intends to introduce into evidence at the Final Approval Hearing, which must also be attached to, or included with, the written objection.

Any objection failing to include the requirements expressed above will be deemed to be invalid. Furthermore, any Class Member objecting to the settlement agrees to submit to any discovery related to the objection.

13. All settlement Class Members shall be bound by all determinations and Judgments in this Litigation concerning the settlement, including, but not limited to, the release provided for in the Settlement Agreement, whether favorable or unfavorable, except those who timely and validly request exclusion from the Class. The Persons who timely and validly request exclusion from the Class will be excluded from the Class and shall not have rights under the Settlement Agreement, shall not be entitled to submit Claim Forms, and shall not be bound by the Settlement Agreement or any Final Approval order as to Defendants in this Litigation.

14. Pending final determination of whether the Settlement Agreement should be approved, Plaintiffs and the Class are barred and enjoined from commencing or prosecuting any claims asserting any of the Released Claims against all Released Persons as defined in the Settlement Agreement.

15. The Court reserves the right to adjourn the date of the Final Approval Hearing without further notice to the potential Class Members, and retains jurisdiction to consider all further requests or matters arising out of or connected with the proposed settlement. The Court may approve the settlement, with such modification as may be agreed to by the Parties or as ordered by the Court, without further notice to the Class.

IT IS SO ORDERED.

/s/

\_\_\_\_\_   
The Honorable



12/27/2023 10:52:27 AM