

FILED
COMMON PLEAS COURT
MUSKINGUM CO, OHIO

2023 NOV 14 PM 3: 13

WENDY L. SOWERS
CLERK

IN THE COURT OF COMMON PLEAS
MUSKINGUM COUNTY, OHIO

LEE MCKITTRICK, et al., *individually and
on behalf of all others similarly situated,*

Plaintiffs,

v.

ALLWELL BEHAVIORAL HEALTH
SERVICES,

Defendant.

Case No.: CH 2022-0174

Hon. Mark C. Fleegle

ORDER GRANTING
FINAL APPROVAL OF
CLASS ACTION SETTLEMENT

Before this Court are two motions: (1) Plaintiffs' Unopposed Motion for Final Approval of Class Action Settlement, and (2) Plaintiff's Unopposed Motion for Attorneys' Fees and Class Representative Service Award (collectively, "Final Approval Filings"). The Final Approval Filings seek (a) certification of the Class for settlement purposes; (b) final approval of the proposed Settlement preliminarily approved by this Court on June 13, 2023, and memorialized in the Settlement Agreement; (c) dismissal with prejudice of Plaintiffs' and Class Members' claims against Defendant; (d) approval of Class Counsel's attorney fees and reimbursement of expenses; and (e) approval of a Service Award for Class Representatives, Lee McKittrick and Jeremy Standish. In connection with the Motion for Final Approval, the Court considered the pleadings, all exhibits, and affidavits thereto, and the arguments of counsel.

The Final Approval Hearing was duly held before this Court on November 9, 2023, to determine: (a) whether certification of the Class for settlement purposes is appropriate; (b) whether

the proposed Settlement on the terms and conditions provided for in the Settlement Agreement is fair, reasonable, and adequate; (c) whether a final judgment should be entered; (d) whether to approve Class Counsel's request for an award of attorneys' fees and reimbursement of expenses; and (e) whether to grant Plaintiffs' request for a Service Award to the Class Representatives, Lee McKittrick and Jeremy Standish. The Court, having read and considered all submissions, evidence, and argument made in connection with the Final Approval Filings, finds that final approval is appropriate and concludes as follows.

IT IS HEREBY ORDERED THAT:

1. The definitions and terms set forth in the Settlement Agreement are hereby adopted and incorporated into this Order.
2. The Court has jurisdiction over the subject matter of this action, the parties, and Class Members.
3. As part of its June 13, 2023 Preliminary Approval Order, the Court preliminarily certified for settlement purposes a Class defined as follows:

All individuals who were issued notice by Allwell that their personal information may have been involved in the Data Breach.

The Court hereby affirms this definition of the Class for purposes of this Final Order and Judgment and certifies this action, for Settlement purposes only, as a class action pursuant to Civ.R. 23(B)(3). In so doing, the Court finds, for Settlement purposes only, that the action meets all the requirements of Rule 23 of the Ohio Rules of Civil Procedure and due process and can therefore be certified as a class action because: (1) the Class is so numerous that joinder of all members is impracticable; (2) there are questions of law or fact that are common to the Class; (3) Plaintiffs' claims are typical of the claims of the Class; (4) Class Representative Plaintiffs Lee McKittrick and Jeremy Standish and Class Counsel Terence R. Coates of Markovits, Stock & DeMarco, LLC; Joseph M. Lyon of

The Lyon Firm; Matthew R. Wilson of Meyer Wilson Co., LPA; and Brittany Resch of Turke & Strauss LLP have fairly and adequately protected the interests of the Class; (5) the common issues predominate; and (6) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

4. Plaintiffs and Defendant have entered into the Settlement Agreement, which has been filed with the Court and is incorporated herein by reference. The Settlement Agreement provides for the settlement of this action on behalf of Plaintiffs and the members of the Class, subject to final approval by the Court. The Settlement Agreement provides that, in exchange for the release described in the Settlement Agreement and this Final Order and Judgment, Defendant shall provide a non-reversionary cash common fund of \$650,000.00, which will pay all attorneys' fees, settlement costs (notice, fees, administration), and provide for three separate forms of relief to the Class Members who submit a valid and timely claim form: (1) Reimbursement for loss of time compensated at \$25.00 an hour (up to five hours); (2) Reimbursement for out of pocket expenses up to \$4,000.00; and (3) following the payment of the initial claims, and all expenses, the remaining funds will be distributed on a pro rata basis to the participating Class Members.

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

6. The Court has reviewed the forms of the Notice provided to potential Class

Members, including the written and electronic forms of Notice and the Settlement Website, and concludes that the Notice Program implemented by Atticus Administration LLC and Class Counsel in this matter was fair and reasonable, satisfies Rule 23 and due process, and constitutes adequate notice to the Class of the settlement of this Action.

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

8. The Court finds that Class Counsel Terence R. Coates of Markovits, Stock & DeMarco, LLC; Joseph M. Lyon of The Lyon Firm; Matthew R. Wilson of Meyer Wilson Co., LPA; and Brittany Resch of Turke & Strauss LLP have fairly and adequately represented the interests of the Class and satisfied the requirements of Civ.R. 23.

9. Class Counsel has requested attorneys' fees in the amount of \$216,666.66. Class Counsel's fee request is reasonable under the circumstances in this case and in light of the value of the Settlement benefits made available to the Class. Furthermore, the fee request is reasonable because it was negotiated between two Parties whose counsel are highly experienced in data breach cases and the mediation was overseen by Hon. Judge Denlow, a mediator with vast experience handling data breach class action mediations. Class Counsel has also submitted a summary of \$10,966.31 in expenses reasonably incurred in this matter which the Court has reviewed. Class Counsel's request for attorneys' fees and expenses in the amount of \$227,632.07 is reasonable under the circumstances and hereby approved.

10. Plaintiffs further request a Service Awards in the amount of \$5,000.00 each for Mr. McKittrick and Mr. Standish (together totaling \$10,000.00). The Class Representatives adequately represented the Class's interests in this matter by staying informed throughout the litigation and thoroughly reviewing and approving the terms of the Settlement. The requested Service Awards are reasonable, and are hereby approved.

11. The notices to the Class appropriately advised all potential Class Members of their right to object to the Settlement or opt-out of the Settlement. All members of the Class had the opportunity to object to the Settlement and the absolute right to opt-out of the Settlement. The fact that there were no objections to the Settlement and only two requests to opt out of the Settlement supports a finding that the Settlement, including the administration of the Settlement, was reasonable. The requests of the two individuals named on the Notice of Exclusion Requests filed by Class Counsel are accepted by the Court, and those individuals, Mary Edwards and Lori L. Miller, are not Class Members covered by this Settlement.

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

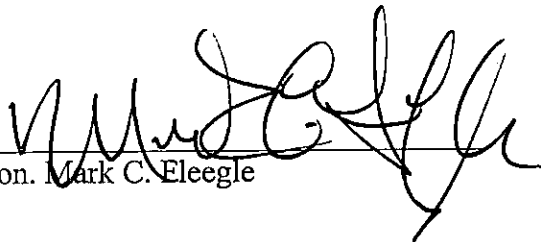
13. All provisions of the Settlement Agreement are hereby incorporated into this Order as if fully rewritten herein. To the extent there are terms in this Order that conflict with the terms of the Settlement Agreement in any manner, the Settlement Agreement shall control.

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

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

NOV 14 2023

Date



Hon. Mark C. Eleegle

TO THE CLERK OF COURTS:

In accordance with Civ.R. 58(B), the Clerk is hereby directed to serve notice of this Judgment and the date of its entry upon the journal of the Court upon all parties herein within three days of its entry, in the manner prescribed by Civ.R. 5(B), and to note the service in the appearance docket.