

NOTIFY

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIVIL ACTION NO: 2484CV02307

JOAN TOZZI, individually,
and on behalf of all others similarly situated,

Plaintiff,

v.

SOUTH SHORE MENTAL HEALTH CENTER
d/b/a ASPIRE HEALTH ALLIANCE,

Defendant.

~~PROPOSED~~ PRELIMINARY APPROVAL ORDER

WHEREAS, this Action¹ is a putative class action before this Court;

WHEREAS, Plaintiff Joann Tozzi, individually, and on behalf of the proposed Settlement Class, and South Shore Mental Health Center d/b/a Aspire Health Alliance ("Aspire"), have entered into the Settlement Agreement, which is subject to review and approval by the Court under Massachusetts Rule of Civil Procedure 23(a) and (b) and which, together with its exhibits, provides for a complete dismissal on the merits and with prejudice of the claims asserted in the Action against Aspire should the Court grant Final Approval of the Settlement;

WHEREAS, Plaintiff filed an unopposed Motion for Preliminary Approval requesting entry of an order to: (1) conditionally certify the Settlement Class; (2) appoint Plaintiff as Class Representative; (3) appoint Jeff Ostrow, Nicholas A. Colella, Patrick D. Donathen, Jason Leviton, and Brendan Jarboe as Class Counsel; (4) preliminarily approve the Settlement; (5) appoint

¹ The capitalized terms herein shall have the same meanings as those used in Section II of the Settlement Agreement, attached to the Motion for Preliminary Approval as *Exhibit A*.

Simpluris, Inc. as the Settlement Administrator; (6) approve the Notice Program and direct that Notice be sent to the Settlement Class; (7) approve the Claims Process; (8) approve the Settlement's opt-out and objection procedures; (8) stay all deadlines in the Action pending Final Approval of the Settlement; (9) enjoin and bar all members of the Settlement Class from initiating or continuing in any litigation or asserting any claims against Aspire and the Released Parties arising out of, relating to, or in connection with the Released Claims prior to the Court's decision to grant Final Approval of the Settlement; and (10) set a date for the Final Approval Hearing; and

WHEREAS, the Court having reviewed the Motion along with the Settlement and its exhibits and finding that substantial and efficient grounds exist for entering this Preliminary Approval Order granting the relief requested.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. **Settlement Class Certification:** Pursuant to Massachusetts Rule of Civil Procedure 23(a) and (b), and for purposes of settlement only, the Action is hereby preliminarily certified as a class action on behalf of the following Settlement Class:

All living individuals who were sent a notice by Aspire that their Private Information may have been impacted in the Data Incident.

2. **Settlement Fund:** The Settlement provides Cash Payments and Medical Data Monitoring that Aspire is obligated to pay under the Settlement. The Settlement Fund will be used to pay for the Cash Payments and Medical Data Monitoring; Settlement Administration Costs; any Court-approved attorneys' fees and costs to Class Counsel; and any Court-approved Service Awards to Plaintiff for serving as the Class Representative.

3. The terms of the Settlement (and the Settlement provided for therein) are preliminarily approved and ~~likely to be approved at the Final Approval Hearing pursuant to~~ Massachusetts Rule of Civil Procedure 23(e) as fair, reasonable, and adequate. (PBL)

4. **Settlement Class Findings:** ^{preliminarily} The Court finds, for purposes of settlement only, and without any adjudication on the merits, that the prerequisites for certifying the Action as a class action under Massachusetts Rule of Civil Procedure 23(a) and (b) have been satisfied, ^{PBK} and that the Court will likely certify at the Final Approval stage a Settlement Class. ^{PBK}

5. As to Rule 23(a), the Court finds that: (a) the number of Settlement Class members is so numerous that joinder is impracticable; (b) there are questions of law and fact common to the Settlement Class; (c) the claims of the proposed Class Representatives are typical of the claims of the Settlement Class; (d) the proposed Class Representatives and Class Counsel have and will fairly and adequately represent the interests of the Settlement Class.

6. As to Rule 23(b), the Court finds that questions of law and fact common to the Settlement Class predominate over any questions affecting individual members. Also, a class action is superior to other available methods for fairly and efficiently adjudicating the Action taking into consideration: (i) the lack of evidence of any intent among the Settlement Class members to individually control the prosecution of separate actions; (ii) other than the Related Actions, the Parties' not being aware of any litigation concerning the controversy already begun by Settlement Class members other than the proposed Class Representative; (iii) the small value of the claims of many of the individual Settlement Class members making the pursuit of individual actions cost prohibitive for most Settlement Class members; and (iv) the similarity of the Settlement Class members' claims involving substantially identical proofs. *See* Mass. R. Civ. P. 23(b).

7. **Appointment of Class Representative and Class Counsel:** The Court hereby finds and concludes pursuant to Massachusetts Rule of Civil Procedure 23(a)(4), and for purposes of settlement only, that Plaintiff is an adequate class representative and appoints Plaintiff as Class

Representative for the Settlement Class.

8. The Court finds that, pursuant to Massachusetts Rule of Civil Procedure 23(d), proposed Class Counsel have expended a reasonable amount of time, effort, and expense investigating the Data Incident. It is clear from their track record of success, as outlined in their resumes, that Class Counsel are highly skilled and knowledgeable concerning class action practice. For purposes of the Settlement only, the Court appoints Jeff Ostrow, Nicholas A. Colella, Patrick D. Donathen, Jason Leviton, and Brendan Jarboe as Class Counsel to act on behalf of the Settlement Class and the Class Representative with respect to the Settlement. *(PBL)*

9. **Preliminary Approval of the Settlement:** The Court hereby preliminarily approves the Settlement, as embodied in the Agreement, as being fair, reasonable, and adequate, and in the best interest of the named Plaintiff and the Settlement Class, subject to further consideration at the Final Approval Hearing to be conducted as described below.

10. **Settlement Administrator:** Class Counsel are authorized to use Simpluris, Inc. as the Settlement Administrator to supervise and administer the Notice Program, as well as to administer the Settlement should the Court grant Final Approval.

11. **Approval of Notice Program and Notices:** The Court approves, as to form and content, the Notice Program, including the Postcard Notice and Long Form Notice, substantially in the forms attached as exhibits to the Agreement. The Court finds that the Notice Program: (a) is the best notice practicable under the circumstances; (b) constitutes notice that is reasonably calculated, under the circumstances, to apprise Settlement Class members of the pendency of the Action, the terms of the Settlement, the effect of the proposed Settlement (including the Releases contained therein), and their right to opt-out of or to object to the proposed Settlement and appear at the Final Approval Hearing; (c) constitutes due, adequate, and sufficient notice to all persons

except that the Long Form Notice on p. 9 under "If I Do Nothing" (Section 20) shall be modified to conform to the "Do Nothing" box on p. 2 of the Postcard Notice. See also "MEDICAL DATA MONITORING" and "Cash Payment B - ProRata Cash" sections of the Data Incident Settlement Claim Form. *(PBL)*

entitled to receive notice of the proposed Settlement; and (d) satisfies the requirements of Massachusetts Rule of Civil Procedure 23, due process, the rules of this Court, and all other applicable law and rules. The date and time of the Final Approval Hearing shall be posted on the Settlement Website and included in the Postcard Notice and Long Form Notice, respectively, before they are emailed, mailed, or published.

12. **Claim Form and Claims Process:** The Court approves the Claim Form as set forth in the Settlement, and the Claims Process to be implemented by the Settlement Administrator. The Claim Form is straightforward and easy to complete, allowing each Settlement Class Member to elect the alternative Settlement Class Member Benefits. ^(P&L) Should the Court grant Final Approval to the Settlement, Settlement Class Members who do not opt-out of the Settlement shall be bound by its terms even if they though do not submit Claims.

13. **Dissemination of Notice and Claim Forms:** The Court directs the Settlement Administrator to disseminate the Notices and Claim Form as approved herein. Class Counsel and Aspire's counsel are hereby authorized to use all reasonable procedures in connection with approval and administration of the Settlement that are not materially inconsistent with this order or the Settlement, including making, without the Court's further approval, minor form or content changes to the Notices and Claim Form they jointly agree are reasonable or necessary.

14. **Opt-Outs from the Settlement Class:** The Notice shall provide that any member of the Settlement Class who wishes to opt out from the Settlement Class must request exclusion in writing within the time and manner set forth in the Notice. The Notices shall provide that opt-out requests must be sent to the Settlement Administrator and be postmarked no later than 15 days before the initial date set for the Final Approval Hearing and otherwise fully comply with the requirements of the Settlement Agreement and Long Form Notice.

15. Any Settlement Class member who timely and validly opts-out from the Settlement Class shall, provided the Court grants Final Approval: (a) be excluded from the Settlement Class by Order of the Court; (b) not be a Settlement Class Member; (c) not be bound by the terms of the Settlement; and (d) have no right to the Settlement Class Member Benefits. Any Settlement Class member who does not timely and validly request to opt-out shall be bound by the terms of this Settlement.

16. **Objections to the Settlement:** The Notice shall also provide that any Settlement Class Member who does not opt-out from the Settlement Class may object to the Settlement and/or the Application for Attorneys' Fees, Costs, and Service Award. Objections must be filed with the Clerk of the Court and mailed to the Settlement Administrator, Class Counsel and Aspire's Counsel. Objections must be submitted on behalf of a Settlement Class Member no later than 15 days before the original date set for the Final Approval Hearing and otherwise fully comply with the requirements set forth in the Settlement Agreement and Long Form Notice. Class Counsel and/or Aspire's Counsel may conduct limited discovery on any objector consistent with the rules of civil procedure, including taking depositions and propounding written discovery requests.

17. **Motion for Final Approval and Application for Attorneys' Fees, Costs, and Service Award:** Class Counsel intends to seek an award of up to one-third of the Settlement Fund as attorneys' fees, as well as reimbursement of reasonable litigation costs, and a Service Award of \$2,500.00 for the Class Representative to be paid from the Settlement Fund. ~~These amounts appear reasonable, but the Court will defer ruling on those awards until the Final Approval Hearing when considering Class Counsel's Application for Attorneys' Fees, Costs, and Service Award.~~ PBK

18. Class Counsel shall file their Motion for Final Approval and Application for Attorneys' Fees, Costs, and Service Award no later than 45 days before the initial date set for the

Final Approval Hearing. At the Final Approval Hearing, the Court will hear argument on Class Counsel's request for attorneys' fees and costs and Service Award for the Class Representative. In the Court's discretion, the Court also will hear argument at the Final Approval Hearing from any Settlement Class Members (or their counsel) who object to the Settlement or to the Application for Attorneys' Fees, Costs, and Service Award, provided the objector(s) submitted timely objections that meet all of the requirements listed in the Settlement and in this order.

19. **Termination:** If the Settlement is terminated, not approved, canceled, fails to become effective for any reason, or the Effective Date does not occur, this order shall become null and void and shall be without prejudice to the rights of Plaintiff, the Settlement Class members, and Aspire all of whom shall be restored to their respective positions in the Action as provided in the Agreement.

20. **Stay:** All pretrial proceedings in this Action are stayed and suspended until further order of this Court, except such actions as may be necessary to implement the Settlement and this Preliminary Approval Order.

21. **Release:** Upon the entry of this order, with the exception of Class Counsel, Aspire's Counsel, Aspire, and the Class Representative implementation of the Settlement and the approval process in this Action, all members of the Settlement Class shall be provisionally enjoined and barred from asserting any claims or continuing any litigation against Aspire and the Released Parties arising out of, relating to, or in connection with the Released Claims prior to the Court's decision as to whether to grant Final Approval of the Settlement.

22. **Jurisdiction:** For the benefit of the Settlement Class and to protect this Court's jurisdiction, this Court retains continuing jurisdiction over the Settlement proceedings to ensure the effectuation thereof in accordance with the Settlement preliminarily approved herein and the

related orders of this Court.

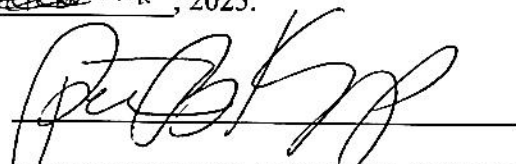
23. **Final Approval Hearing:** The Court will hold a Final Approval Hearing on October 1, 2026 at 2 a.m./p.m. EST, in Courtroom 1015, at the Suffolk County Courthouse, 3 Pemberton Square, Boston, MA 02108. The Final Approval Hearing will be conducted for the following purposes: (a) to determine whether the proposed Settlement, on the terms and conditions provided for in the Settlement, is fair, reasonable, and adequate, and should be approved by the Court; (b) to determine whether an order of Final Judgment should be entered dismissing the Action on the merits and with prejudice; (c) to determine whether the proposed plan of allocation and distribution of the Settlement Fund is fair and reasonable and should be approved; (d) to determine whether any requested award of attorneys' fees and costs to Class Counsel and Service Award to the Class Representative should be approved; and (e) to consider any other matters that may properly be brought before the Court in connection with the Settlement. The Court may elect to hold the Final Approval Hearing virtually by Zoom or some other application, and if it does, the instructions on how to attend shall be posted by the Settlement Administrator on the Settlement Website.

24. **Schedule:** The Court hereby sets the following schedule of events:

Event	Date
Notice Program Begins	Within 20 days of Preliminary Approval
Notice Program Complete	45 days before initial scheduled Final Approval Hearing
Deadline to File Motion for Final Approval, and Application for Attorneys' Fees , Costs, and Service Award	45 days before initial scheduled Final Approval Hearing
Opt-Out Deadline	15 days before initial scheduled Final Approval Hearing
Objection Deadline	15 days before initial scheduled Final Approval Hearing

Claim Form Deadline	15 days before initial scheduled Final Approval Hearing
Final Approval Hearing	<u>October 1</u> , 2026, at <u>2</u> p.m. am Pgt

SO ORDERED this 4th day of ~~June~~ June, 2025.


JUSTICE OF THE SUPERIOR COURT
(KRUPP, J.)