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| <b>STATE OF MINNESOTA</b>                           | <b>DISTRICT COURT</b>                                       |
| <b>COUNTY OF HENNEPIN</b>                           | <b>FOURTH JUDICIAL DISTRICT</b>                             |
| <i><b>IN RE MNGI DIGESTIVE HEALTH,<br/>P.A.</b></i> | Court File No. 27-CV-24-10788<br><br>Case Type: Civil Other |

### **SETTLEMENT AGREEMENT**

This Settlement Agreement is made and entered into by and among the following Settling Parties (as defined below): Sammie Lee Austin, Michele Margaret Dagenais, Dirk Hackett, Kathleen Schroeder and Debra Soberg, individually and on behalf of all others similarly situated (collectively, “Plaintiffs”) and MNGI Digestive Health, P.A. (“MNGI” or “Defendant” and, together with Plaintiffs, the “Parties” or “Settling Parties”). The Settlement Agreement is subject to Court approval and intended by the Settling Parties to resolve, discharge and settle the Released Claims and this Litigation (as defined below), upon and subject to the terms and conditions set forth below.

### **INTRODUCTION**

This Settlement resolves a nationwide class action brought by Plaintiffs on behalf of themselves and a purported class of similarly situated individuals.

### **PROCEDURAL BACKGROUND**

The case arises from the alleged compromise of personal identifying information (“PII”) and personal health information (“PHI,” together with PII, “Private Information”) as the result of a cyber-attack Defendant experienced on or around August 20, 2023 (the

“Data Incident”). Plaintiffs and Class Members (as defined below) include all United States residents whose Private Information may have been disclosed in the Data Incident to unauthorized persons. In response to the Data Incident, Defendant posted a “Notice of Data Security Incident” to its website and began sending Breach Notice letters on or around July 15, 2024, to each potentially impacted individual providing a description of the type of Private Information involved, which potentially included victims’ full names, dates of birth, passport numbers, drivers’ license or state identification numbers, medical information, health insurance information, payment card information, account numbers, and Social Security numbers. Plaintiffs’ Consolidated Class Action Complaint was filed as Doc. Index No. 62 in Case No. 27-CV-24-10788 (hereinafter “Complaint”) on December 20, 2024.

Plaintiffs, collectively, alleged both individually and on behalf of a nationwide Class that, as a direct result of the Data Incident, Plaintiffs and Class Members suffered numerous injuries and would likely suffer additional harm in the future. Plaintiffs’ claims for alleged damages and remedies included the following categories of harms: (i) substantial increase in the likelihood of identity theft; (ii) the compromise, publication and theft of their Private Information; (iii) out-of-pocket expenses associated with the prevention, detection and recovery from unauthorized use of their Private Information; (iv) lost opportunity costs associated with effort attempting to mitigate the actual and future consequences of the Data Incident; (v) the continued risk to their Private Information, which remains in MNGI’s possession; (vi) future costs in terms of time, effort and money that will be required to prevent, detect and repair the impact of the Private Information compromised as a result of

the Data Incident; (vii) overpayment for the services that were received without adequate data security; (viii) loss of the benefit of the bargain; (ix) anxiety and emotional distress; and (x) deprivation of the value of their Private Information, for which there is a well-established national and international market.

Plaintiffs, individually and on behalf of other Members of the nationwide Class, collectively asserted claims for: (i) negligence, (ii) negligence *per se*, (iii) breach of contract, (iv) breach of implied contract, (v) unjust enrichment, (vi) breach of fiduciary duty, (vii) violations of the Minnesota Consumer Fraud Act, (viii) violations of the Minnesota Uniform Deceptive Trade Practices Act, and (ix) violations of the Minnesota Health Records Act. On January 30, 2025, the Parties filed a Joint Notice of Settlement with this Court.

### **SETTLEMENT DISCUSSIONS**

Recognizing the risk and expense of prolonged litigation, the Parties agreed to pursue early settlement discussions and mediation. Following several pre-mediation meetings and negotiations, the Parties scheduled mediation with Bennett G. Picker, Esq. of Stradley Ronon Stevens & Young, LLP on January 29, 2025. This mediation was ultimately successful, and the Parties reached agreement.

Pursuant to the terms identified herein, this Settlement Agreement provides for the resolution of all claims and causes of action asserted, or that could have been asserted, against Defendant and the Released Persons (as defined below) related to the Data Incident and this Litigation, by and on behalf of Plaintiffs and Class Members.

## **PLAINTIFFS' CLAIMS AND BENEFITS OF SETTling**

Plaintiffs and Class Counsel believe the claims asserted in the Litigation, as set forth in their Complaint against Defendant, have merit. Plaintiffs and Class Counsel recognize and acknowledge, however, the expense and length of continued proceedings necessary to prosecute the Litigation against Defendant through motion practice, discovery, class certification, trial and potential appeals. Plaintiffs and Class Counsel have also considered the uncertain outcome and risk of further litigation, as well as the difficulties and delays inherent in such litigation, especially in complex class actions. Class Counsel are highly experienced in class action litigation—in particular, data breach and privacy litigation—and have previously served as lead counsel in other data breach class actions through final approval. Plaintiffs and Class Counsel have determined that the Settlement set forth in this Settlement Agreement is fair, reasonable and adequate, and in the best interests of the Plaintiffs and Class Members.

## **DENIAL OF WRONGDOING AND LIABILITY**

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

that the Litigation be settled in the manner and upon the terms and conditions set forth in this Settlement Agreement.

### **TERMS OF SETTLEMENT**

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among Plaintiffs, individually and on behalf of the Class Members, Class Counsel, as set forth in the signature block below, and Defendant that, subject to the approval of the Court, the Released Claims (as defined below) shall be finally and fully compromised, settled and released, and the Litigation shall be dismissed with prejudice as to the Settling Parties and the Class Members, upon and subject to the terms and conditions of this Settlement Agreement, as follows:

#### **I. Definitions**

As used in the Settlement Agreement, the following terms have the meanings specified below:

1.1 “**Administration Fees**” shall mean the fees, costs and other expenses incurred for Settlement Administration, as defined below.

1.2 “**Agreement**” or “**Settlement Agreement**” means this agreement.

1.3 “**Claim**” means a claim for settlement benefits made under the terms of this Settlement Agreement.

1.4 “**Claim Form**” means the form that will be used by Class Members to submit a Claim to the Settlement Administrator substantially in the form as shown in **Exhibit A** to this Settlement Agreement.

1.5     **“Claims Deadline”** means the postmark and/or online submission deadline for Claims, which shall be 90 days after the Notice Date (as defined below). The Claims Deadline shall clearly be set forth in the Preliminary Approval Order, as well as in the Notice and Claim Form.

1.6     **“Class”** means all individuals to whom Defendant sent notice of the security incident that Defendant experienced on or about August 20, 2023. 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 (including any members of the Court’s staff assigned to this case); (iii) Defendant’s officers and directors, and (iv) 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.

1.7     **“Class Counsel”** means Raina Borrelli (Strauss Borrelli PLLC), Christopher P. Renz (Chestnut Cambronne PA), Brian Gudmundson (Zimmerman Reed LLP), E. Michelle Drake (Berger Montague PC), Melissa Weiner (Pearson Warshaw, LLP), Kate Baxter-Kauf (Lockridge Grindal Nauen PLLP), Nathan Prosser (Hellmuth & Johnson PLLC) and David Goodwin (Gustafson Gluek PLLC).

1.8     **“Class Member(s)”** means any Person or Persons who falls within the definition of the Class.

1.9     **“Court”** means the Court of the Honorable Judge Nelson Peralta, sitting in the Fourth Judicial District in the Hennepin County District Court for the State of Minnesota.

1.10 “**Data Incident**” means the data security incident Defendant experienced on or around August 20, 2023, that involved an unauthorized third-party accessing Defendant’s network and computer systems and potentially accessing the Private Information of Plaintiffs and Class Members.

1.11 “**Dispute Resolution**” means the process for resolving disputed Claims as set forth in this Agreement.

1.12 “**Effective Date**” shall mean the first day that all the factors listed in the definition of “Final” below have been satisfied.

1.13 “**Escrow Account**” means the account opened by the Settlement Administrator at The Huntington National Bank.

1.14 “**Final**” means the occurrence of all of the following events: (i) the settlement pursuant to this Settlement Agreement is approved by the Court; (ii) the Court has entered a Judgment (as that term is defined herein); and (iii) the time to appeal or seek permission to appeal from the Judgment has expired or, if appealed, the appeal has been dismissed in its entirety, or the Judgment has been affirmed in its entirety by the Court of last resort to which such appeal may be taken, and such dismissal or affirmance has become no longer subject to further appeal or review. Notwithstanding the above, any order(s) modifying or reversing any attorneys’ fees award or service awards made in this Litigation shall not affect whether the Judgment is “Final” as defined herein, or any other aspect of the Judgment.

1.15 “**Final Fairness Hearing**” means the hearing held by the Court to determine whether the settlement set forth in this Agreement shall receive final approval pursuant to

Minnesota Rule of Civil Procedure 23. The hearing may be held remotely, and if so, instructions will be posted on the Settlement Website.

1.16 “**Final Approval Order**” is the order through which the Court grants final approval of class action settlement and finds that this Settlement is fair, reasonable and adequate. Class Counsel shall move the Court for a Final Approval Order of this Settlement 14 days prior to the date of the Final Fairness Hearing. Contemporaneously with seeking Final Approval of the Settlement, Parties’ Counsel shall cause to be filed with the Court a declaration from the Settlement Administrator with respect to the Notice program and the Claims process.

1.17 “**Judgment**” means a judgment rendered by the Court.

1.18 “**Litigation**” means this case, *In re MNGI Digestive Health, P.A.* (27-CV-24-10788), pending in the Fourth Judicial District in the Hennepin County District Court of the State of Minnesota.

1.19 “**Long Notice**” means the long-form notice of settlement to be posted on the Settlement Website (as defined below), substantially in the form as shown in **Exhibit B** to this Settlement Agreement.

1.20 “**Net Settlement Fund**” means the amount remaining in the Settlement Fund after payment for Administration Fees, attorneys’ fees and costs, and Service Awards.

1.21 “**Notice Date**” means 30 days after the entry of the Preliminary Approval Order, which is the date that Notice will be commenced to Class Members.

1.22 “**Objection Date**” means the date by which Class Members must file with the Court and mail to Class Counsel and counsel for Defendant their objection to the



Settlement for that objection to be effective. The postmark date shall constitute evidence of the date of mailing for these purposes. The Objection Date shall be 60 days after the Notice Date.

1.23 “**Opt-Out Date**” means the date by which Class Members must mail to the Settlement Administrator their requests to be excluded from the Class for that request to be effective. The postmark date shall constitute evidence of the date of mailing for these purposes. The Opt-Out Date shall be 60 days after the Notice Date.

1.24 “**Person(s)**” means an individual, corporation, partnership, limited partnership, limited liability company or partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof and any business or legal entity, and their respective spouses, heirs, predecessors, successors, representatives or assignees.

1.25 “**Plaintiffs**” and/or “**Class Representatives**” mean Sammie Lee Austin, Michele Margaret Dagenais, Dirk Hackett, Kathleen Schroeder and Debra Soberg.

1.26 “**Preliminary Approval Order**” means the order preliminarily approving the Settlement Agreement and ordering that notice be provided to the Class. The Settling Parties’ proposed form of Preliminary Approval Order is attached to this Settlement Agreement as **Exhibit C**.

1.27 “**Released Claims**” shall collectively mean any and all past, present and future claims and causes of action related to the Data Incident, including, but not limited to, any causes of action arising under or premised upon any statute, constitution, law, ordinance, treaty, regulation or common law of any country, state, province, county, city or

municipality, including 15 U.S.C. § 45, *et seq.*, and all similar statutes in effect in any states in the United States as defined below; state consumer-protection statutes; negligence; negligence *per se*; breach of contract; breach of implied contract; breach of fiduciary duty; breach of confidence; invasion of privacy; fraud; misrepresentation (whether fraudulent, negligent, or innocent); unjust enrichment; bailment; wantonness; failure to provide adequate notice pursuant to any breach notification statute or common law duty; and including, but not limited to, any and all claims for damages, injunctive relief, disgorgement, declaratory relief or judgment, equitable relief, attorneys' fees and expenses, pre-judgment interest, credit monitoring services, the creation of a fund for future damages, statutory damages, punitive damages, special damages, exemplary damages, restitution and/or the appointment of a receiver, whether known or unknown, liquidated or unliquidated, accrued or unaccrued, fixed or contingent, direct or derivative and any other form of legal or equitable relief that either has been asserted, was asserted, or could have been asserted, by any Class Member against any of the Released Persons based on, relating to, concerning or arising out of the alleged Data Incident or the allegations, transactions, occurrences, facts or circumstances alleged in or otherwise described in the Litigation. Released Claims shall not include the right of any Class Member or any of the Released Persons to enforce the terms of the settlement contained in this Settlement Agreement and shall not include the claims of any Person who has timely excluded themselves from the Class.

1.28 “**Related Entities**” means Defendant’s past or present parents, subsidiaries, divisions and related or affiliated entities, and each of their respective predecessors, successors, directors, officers, principals, agents, attorneys, insurers, and reinsurers and

includes, without limitation, any Person related to any such entity who is, was or could have been named as a defendant in any of the actions in the Litigation, other than any Person who is 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.

1.29 “**Released Persons**” means Defendant MNGI Digestive Health, P.A., a Minnesota corporation, and the Related Entities.

1.30 “**Remainder Funds**” means any funds that remain in the Settlement Fund after payments from the Settlement Fund are paid for all Valid Claims (as defined below). The funds remaining in the Settlement Fund after payments for Valid Claims have been distributed and the time for cashing and/or depositing checks has expired will be Remainder Funds. If feasible, the Remainder Funds will be distributed *pro rata* to each Class Member that submitted a Valid Claim. If distribution of Remainder Funds to Class Members is deemed infeasible by Class Counsel and/or any Settlement Funds undeliverable and/or checks uncashed, those funds will be paid to a charitable organization as a *cy pres* award, as approved by the Court. Minnesota Rule of Civil Procedure 23.05 permits and establishes the procedure for the Court to direct a distribution of *cy pres* funds to a particular recipient. Recent amendments to the rule require that notice be provided to legal service providers, or other potential *cy pres* recipients at the court’s discretion, when the district court is considering the possible distribution of *cy pres* funds. Rule 23.05 permits the Parties to propose a recipient, and the Parties identify The Pro Se Project as an option.

1.31 “**Reminder Notice**” means a reminder notice, based on the Short Notice, substantially in the form of **Exhibit D** to the Settlement Agreement, sent via email to Members of the Class for whom Defendant possesses email addresses, and via single postcard to Members of the Class for whom Defendant only possesses physical addresses. This Reminder Notice will be sent 30 days before the Claims Deadline.

1.32 “**Service Award(s)**” shall have the meaning ascribed to it as set forth in ¶ 6.3 of this Settlement Agreement. The Service Award requested in this matter will be \$5,000.00 to each Class Representative, subject to Court approval and will be in addition to any other Settlement benefits Plaintiffs may receive. The Service Award shall be paid using and through the Settlement Fund.

1.33 “**Settlement Administration**” means the providing of Notice, the processing and payment of awards of Attorneys’ Fees and Expenses and Service Award(s), and the processing and payment of Claims received from Class Members by the Settlement Administrator and all undertakings reasonably necessary by the Settlement Administrator to fulfill its obligations hereunder.

1.34 “**Settlement Administrator**” means subject to Court approval, Epiq Class Action & Claims Solutions, Inc., a company experienced in administering class action claims generally and specifically those of the type provided for and made in data breach litigation.

1.35 “**Settlement Fund**” means a non-reversionary common fund to be funded by Defendant in the amount of two million, eight hundred and thirty-eight thousand, seven

hundred and forty-nine dollars and sixty-two cents (\$2,838,749.62) which shall be deposited into the Escrow Account as set forth in ¶ 7.1 of this Settlement Agreement.

1.36 “**Settling Parties**” means, collectively, Defendant and Plaintiffs, individually and on behalf of the Class and all Released Persons.

1.37 “**Short Notice**” means the short notice of the proposed class action settlement, substantially in the form as shown in **Exhibit E** to this Settlement Agreement. The Short Notice will direct recipients to the Settlement Website where recipients may view, *inter alia*, the Long Notice and make a claim for monetary relief, and the Short Notice will also have a return claim form that Class Members can use to submit a Claim. The Short Notice will also inform Class Members, *inter alia*, of the Claims Deadline, the Opt-Out Date and Objection Date and the date of the Final Fairness Hearing.

1.38 “**Settlement Website**” shall be the URL [MNGIsettlement.com](http://MNGIsettlement.com) that the Settlement Administrator will establish and will contain detailed information about this Litigation, the Settlement Agreement and Claim submission.

1.39 “**United States**” as used in this Settlement Agreement means the United States of America and includes all of its States, the District of Columbia and all territories.

1.40 “**Unknown Claims**” means any of the Released Claims that any Class Member, including Plaintiffs, does not know or suspect to exist in their favor at the time of the release of the Released Persons that, if known by them, might have affected their settlement with, and release of, the Released Persons, or might have affected their decision not to object to and/or to participate in this Settlement Agreement. With respect to any and all Released Claims, the Settling Parties stipulate and agree that upon the Effective Date,

Plaintiffs intend to and expressly shall have, and each of the other Class Members intend to and shall be deemed to have, and by operation of the Judgment shall have, released any and all Released Claims, including Unknown Claims. 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, and each other Class Member shall be deemed to have, and by operation of the Judgment shall have, upon the Effective Date, fully, finally and forever settled and released any and all Released Claims, including Unknown Claims. The Settling Parties acknowledge, and Class Members shall be deemed by operation of the Judgment to have acknowledged, that the foregoing waiver is a material element of the Settlement Agreement of which this release is a part.

1.41 “**Valid Claims**” means Claims in an amount approved by the Settlement Administrator or found to be valid through the claims processing and/or Dispute Resolution process.

## **II. Settlement Benefits**

2.1 **Claimed Benefits:** All Class Members shall have the opportunity to submit a Claim Form for certain claimed benefits. The claimed benefits, as described below, shall include: (a) Out-of-Pocket Losses, (b) 2 years of Medical Shield medical monitoring provided by Cyex, and (c) *Pro-Rata* Cash Payments. Any Valid Claim may be combined with any other Valid Claim. The amount of claimed benefits received will be calculated and paid in the following order out of the Net Settlement Fund: (1) Out of Pocket Losses, (2) Medical Shield, and (3) *Pro-Rata* Cash Payment. In the unlikely event that the

Settlement Fund is insufficient to cover all Out-of-Pocket Losses and Medical Monitoring claims, Out-of-Pocket Loss claims shall be reduced *pro rata* to account for the amount of remaining funds, and no additional monetary benefits shall be paid to any claimants.

**2.2 Out-of-Pocket Losses:** Every Class Member may submit a claim for up to \$10,000 each for out-of-pocket expenses and losses, which are unreimbursed costs, expenditures or losses incurred by a Class Member that are fairly traceable to the Data Incident (“Out-of-Pocket Losses”). Out-of-Pocket Losses may include, without limitation, the following:

- a. unreimbursed costs, expenses, losses or charges incurred as a result of identity theft or identity fraud, falsified tax returns or other possible misuse of a Class Member’s Social Security number;
- b. unreimbursed costs incurred on or after August 20, 2023, associated with accessing or freezing/unfreezing credit reports with any credit reporting agency;
- c. other unreimbursed miscellaneous expenses incurred related to any Out-of-Pocket Losses such as notary, fax, postage, copying, mileage and long-distance telephone charges;
- d. other mitigative costs that were incurred on or after August 20, 2023, through the date of the Class Member’s claim submission; and
- e. unpaid time off work to address issues fairly traceable to the Data Incident at the actual hourly rate of that Class Member.

Class Members who elect to submit a claim for reimbursement of Out-of-Pocket Losses must provide to the Settlement Administrator information required to evaluate the claim, including: (1) the Class Member’s name and current address; (2) documentation reasonably supporting their claim; and (3) a brief description of the nature of the loss, if the nature of the loss is not apparent from the documentation alone. Documentation supporting Out-of-

Pocket Losses can include receipts or other documentation not “self-prepared” by the Class Member concerning the costs incurred. “Self-prepared” documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but can be considered to clarify or support other submitted documentation. Out-of-Pocket Losses will be deemed “fairly traceable” if: (1) the timing of the loss occurred on or after August 20, 2023, and (2) in the Settlement Administrator’s sole determination, the Out-of-Pocket Losses could reasonably be caused by the Data Incident. Claims for Out-of-Pocket Losses may be reduced *pro rata* in the unlikely event that insufficient funds remain in the Settlement Fund after the payment of Attorneys’ Fees and Expenses Award, any Service Awards and Administration Fees.

**2.3 Medical Monitoring:** All Class Members may file a claim for two years of Medical Shield medical monitoring provided by Cyex.

**2.4 Pro Rata Cash Payment:** All Class Members may file a claim for a *pro rata* share of the Net Settlement Fund, less valid claims for Out-of-Pocket Losses and Medical Monitoring. The amount of this benefit shall be *pro rata* increased or decreased based on the funds remaining in the Net Settlement Fund, following the payment of valid claims for Out-of-Pocket Losses and Medical Monitoring.

**2.5 Claim Form Submission:** Class Members submitting a claim for Out-of-Pocket Losses, Medical Monitoring, and/or a *Pro Rata* Cash Payment must complete and submit a Claim Form to the Settlement Administrator, postmarked or submitted online on or before the Claim Deadline. A Claim Form being filed for an Out-of-Pocket Loss reimbursement must be verified by the Class Member with a statement that their claim is



true and correct, to the best of their knowledge and belief. Notarization is not required. Disputes as to claims submitted under this paragraph are to be resolved pursuant to the provisions stated in ¶ 2.6.

**2.6 Business Practices Changes & Confirmatory Discovery:** Defendant has provided reasonable access to confidential confirmatory discovery regarding the number of Class Members and state of residence, the facts and circumstances of the Data Incident and Defendant's response thereto, and the data security measures that have been made by Defendant since the Data Incident. The costs of the security measures to be implemented over the next three years are valued at two million and seven hundred thousand dollars (\$2,700,000.00).

**2.7 Dispute Resolution for Claims:** The Settlement Administrator, in its sole discretion to be reasonably exercised, will determine whether: (1) the claimant is a Class Member; (2) the claimant has provided all information needed to complete the Claim Form, including any documentation that may be necessary to reasonably support the Out-of-Pocket Loss Claim; (3) the information submitted could lead a reasonable person to conclude that it is more likely than not the claimant reasonably incurred the claimed losses as a result of the Data Incident; and (4) the claimant timely submitted their Claim Form. The Settlement Administrator may, at any time, request from the claimant, in writing, additional information that the Settlement Administrator deems reasonably necessary to evaluate the Claim, *e.g.*, documentation requested on the Claim Form, information regarding the claimed losses and claims previously made for identity theft and the resolution thereof. For any such Claims that the Settlement Administrator determines to be

invalid, the Settlement Administrator will submit those Claims to the Settling Parties, by and through their respective counsel. If, upon meeting and conferring, the Settling Parties disagree as to the Claim validity, then the Claim shall be referred back to the Settlement Administrator for final determination on the Claim validity.

2.7.1 Upon receipt of an incomplete or unsigned Claim Form or a Claim Form that is not accompanied by sufficient documentation to determine whether the Claim is facially valid, the Settlement Administrator shall request additional information and allow the claimant 30 days from the date of the request to cure the defect. If the defect is not cured within the time allotted, then the Claim will be deemed invalid.

2.7.2 Following timely receipt of additional information pursuant to a request by the Settlement Administrator under ¶ 2.7.1, the Settlement Administrator shall have 30 days to accept or reject the Claim. If, after review of the Claim and all documentation submitted by the claimant, the Settlement Administrator determines that such a Claim is valid, then the Claim shall be paid. If the Claim is not valid because the claimant has not provided the information requested by the Settlement Administrator, then the Settlement Administrator may reject the Claim without any further action. A defect in one Claim shall not cause rejection of any other Valid Claim(s) submitted by the claimant.

2.7.3 Class Members shall have 30 days from receipt of the approval of a Claim that provides a payment that deviates from the losses described on the Claim

Form to accept or reject the Claim. This provision does not apply where the Claim value deviates due to a *pro rata* increase or decrease.

2.8 **Settlement Expenses.** All costs for notice to the Class Members as required under ¶ 3.2, all Administrative Fees under ¶ 1.1 and the costs of Dispute Resolution described in ¶ 2.7, shall be paid out of the Settlement Fund before any attorneys' fees, costs and expenses, Service Awards or Claims are paid.

2.9 **Class Certification.** The Settling Parties agree, for purposes of this settlement only, to the certification of the Class. If the settlement set forth in this Settlement Agreement is not approved by the Court, or if the Settlement Agreement is terminated or cancelled pursuant to the terms of the Settlement Agreement, this Settlement Agreement and the certification of the Class provided for herein will be vacated and the Litigation shall proceed as though the Class had never been certified, without prejudice to any Person's or Settling Party's position on the issue of class certification or any other issue. The Settling Parties' agreement to the certification of the Class is also without prejudice to any position asserted by the Settling Parties in any other proceeding, case or action, as to which all of their rights are specifically preserved.

### **III. Order of Preliminary Approval and Publishing of Notice of Final Fairness Hearing**

3.1. As soon as practicable after the execution of the Settlement Agreement, Interim Class Counsel shall submit this Settlement Agreement to the Court and will file a motion for preliminary approval of the settlement with the Court requesting entry of a Preliminary Approval Order in the form substantially similar to **Exhibit C** in both terms

and cost, as well as a Declaration containing the Settlement Administrator's plan for dissemination of notice, and requesting, *inter alia*:

- a) certification of the Class for settlement purposes only pursuant to ¶ 2.9;
- b) preliminary approval of the Settlement Agreement as set forth herein;
- c) appointment of Raina Borrelli (Strauss Borrelli PLLC), Christopher P. Renz (Chestnut Cambronne PA), Brian Gudmundson (Zimmerman Reed LLP), E. Michelle Drake (Berger Montague PC), Melissa Weiner (Pearson Warshaw, LLP), Kate Baxter-Kauf (Lockridge Grindal Nauen PLLP), Nathan Prosser (Hellmuth & Johnson PLLC) and David Goodwin (Gustafson Gluek PLLC) as Class Counsel;
- d) appointment of Plaintiffs as Class Representatives;
- e) approval of the Short Notice to be emailed or mailed to Class Members in a form substantially similar to the one attached as **Exhibit E** to this Settlement Agreement;
- f) approval of the Long Notice to be posted on the Settlement Website in a form substantially similar to the one attached as **Exhibit B** to this Settlement Agreement, which, together with the Short Notice, shall include a fair summary of the Parties' respective litigation positions, statements that the settlement and notice of settlement are legitimate and that the Class Members are entitled to benefits under the settlement, the general terms of the settlement set forth in the Settlement Agreement, instructions for how to object to or opt-out of the settlement, instructions for how to obtain the Settlement benefits, the process and instructions for making claims to the extent contemplated herein, and the date, time and place of the Final Fairness Hearing;
- g) approval of a Claim Form to be used by Class Members to make a claim in a form substantially similar to the one attached as **Exhibit A** to this Settlement Agreement; and
- h) appointment of Epiq Class Action & Claims Solutions, Inc. as the Settlement Administrator.

The Short Notice, Long Notice, Reminder Notice and Claim Form have been reviewed and approved by the Settlement Administrator but may be revised as agreed upon by the Settling Parties before submission to the Court for approval. Immaterial revisions to these documents may also be made prior to dissemination of notice. Any changes to the Preliminary Approval Order, Short Notice, Long Notice, Reminder Notice and Claim Form that do not materially affect the substance of the Settlement Agreement that the Court may require will not invalidate this Settlement Agreement.

3.2 Costs for providing notice to the Class in accordance with the Preliminary Approval Order, and the costs of such notice, together with the Administrative Fees shall be paid from the Settlement Fund. Attorneys' fees, costs and expenses of Class Counsel, and Service Awards to Class Representatives, as approved by the Court, shall also be paid from the Settlement Fund. Notice shall be provided to Class Members by the Settlement Administrator as follows:

- a) **Class Member Information:** No later than the date of the entry of the Preliminary Approval Order, Defendant shall provide the Settlement Administrator with the names, email addresses, and last known physical address, and email (where available) of each Class Member (collectively, "Class Member Information") that Defendant possesses; and
- b) Class Member Information and its contents shall be used by the Settlement Administrator solely for the purpose of performing its obligations pursuant to this Agreement and shall not be used for any other purpose at any time. Except to administer the settlement as provided in this Settlement Agreement or provide all data and information in its possession to the Settling Parties upon request, the Settlement Administrator shall not reproduce, copy, store or distribute in any form, electronic or otherwise, the Class Member Information.

3.3. **Settlement Website:** Prior to the dissemination of notice, the Settlement Administrator shall establish the Settlement Website ([www.MNGIsettlement.com](http://www.MNGIsettlement.com)) that will inform Class Members of the terms of this Settlement Agreement, their rights, dates and deadlines and related information (“Settlement Website”). The Settlement Website, which shall be active within 29 days of the Preliminary Approval Order, shall include, in .pdf format and available for download, the following: (i) the Long Notice; (ii) the Claim Form; (iii) the Preliminary Approval Order; (iv) this Settlement Agreement; and (v) any other materials agreed upon by the Parties and/or required by the Court. The Settlement Website shall provide Class Members with the ability to complete and submit the Claim Form electronically and shall have a “Contact Us” page whereby Class Members can send an email with any additional questions to a dedicated email address and send hardcopy documents to a designated Post Office box established by the Settlement Administrator.

3.4. **Short Notice:** 30 days after the entry of the Preliminary Approval Order (“Notice Date”), and subject to the requirements of this Settlement Agreement and the Preliminary Approval Order, the Settlement Administrator shall begin to provide notice to the Class via email and mail to any mailing address that Defendant provides to the Settlement Administrator, or via email to any Class Member for whom the Settlement Administrator has a valid email address. Before any mailing under this paragraph occurs, the Settlement Administrator shall also perform, or engage a third-party to perform, “reverse lookups” for email addresses associated with Settlement Class Members provided in the Class List without a valid email address. The Settlement Class Member information and its contents shall be used by the Settlement Administrator solely for the purpose of

performing its obligations pursuant to this Settlement Agreement and shall not be used for any other purpose at any time. Except to administer the settlement as provided in this Settlement Agreement the Settlement Administrator shall not reproduce, copy, store, or distribute in any form, electronic or otherwise, the Settlement Class Member Information. Upon conducting a reverse search, the Settlement Administrator shall then run the postal addresses of Class Members through the United States Postal Service (“USPS”) National Change of Address database to update any change of address on file with the USPS.

- a) in the event that a Short Notice is returned to the Settlement Administrator by the USPS because the address of the recipient is no longer valid, and the envelope contains a forwarding address, the Settlement Administrator shall re-send the Short Notice to the forwarding address if the Short Notice is returned as undeliverable;
- b) in the event that subsequent to the first mailing of a Short Notice, and at least 21 days prior to the Opt-Out Date and Objection Date, a Short Notice is returned to the Settlement Administrator by the USPS because the address of the recipient is no longer valid, *i.e.*, the envelope is marked “Return to Sender” and does not contain a new forwarding address, the Settlement Administrator shall perform a standard skip trace, in the manner that the Settlement Administrator customarily performs skip traces, in an effort to attempt to ascertain the Class Member’s current address and, if such an address is ascertained, the Settlement Administrator will re-send the Short Notice within 5 days of receiving such information. If such address is not ascertained, the Settlement Administrator shall email the Short Notice to the Class Member, following the procedure outlined in ¶ 3.4. This shall be the final requirement for mailing;
- c) publishing, on or before the Notice Date, the Claim Form, Long Notice and this Settlement Agreement on the Settlement Website, as specified in the Preliminary Approval Order, and maintaining and updating the Settlement Website throughout the claim period;
- d) a toll-free help line with an IVR system and a live operator option shall be made available to provide Class Members with additional information about the settlement. The Settlement Administrator also

will provide copies of the Long Notice and paper Claim Form, as well as this Settlement Agreement, upon request;

- e) a mailed or emailed Reminder Notice to Class Members at least 30 days before the Claim Deadline; and
- f) contemporaneously with seeking Final Approval of the Settlement, Class Counsel and Defendant shall cause to be filed with the Court an appropriate affidavit or declaration with respect to complying with these provisions regarding notice.

3.5. The Short Notice, Long Notice and other applicable communications to the Class may be adjusted by the Settlement Administrator in consultation and agreement with the Settling Parties as may be reasonable and not inconsistent with such approval. The notice program shall commence within 30 days after entry of the Preliminary Approval Order.

3.6. The Settlement Administrator shall abide by the following procedure for any emailed Short Notice or Reminder Notice that bounce back or is otherwise undeliverable: The Settlement Administrator will send an email notice to any email address updated via this process. In the event that the foregoing methods fail to result in a successful email delivery, the Settlement Administrator shall send notice to that Class Member via postal address if such postal address is available.

3.7. Class Counsel and Defendant's counsel shall request that after notice is completed the Court hold a hearing (the "Final Fairness Hearing") and grant final approval of the settlement set forth herein, and request that the Final Fairness Hearing occur on a date that is convenient for the Court and is at least 100 days after the entry of the Preliminary Approval Order.



#### **IV. Opt-Out Procedures**

4.1 Each Person wishing to opt-out of the Class shall individually sign and timely submit written notice of such intent to the designated Post Office box established by the Settlement Administrator. The written notice must clearly: (i) state the Settlement Class Member's full name, current address, and signature; and (ii) manifest the Person's intent to opt-out of the Class. To be effective, written notice must be postmarked no later than the Opt-Out Date.

4.2 All Persons who submit valid and timely notices of their intent to opt-out of the Class (hereinafter, "Opt-Outs") shall not receive any benefits of, and shall not be bound by, the terms of this Settlement Agreement. All Persons falling within the definition of the Class who do not opt-out of the Class in the manner set forth in this Agreement shall be bound by the terms of this Settlement Agreement and Judgment entered thereon.

4.3 In the event that more than 150 Settlement Class Members exercise their right to exclude themselves from the Settlement Class, Defendant shall have the option to terminate this Agreement. Defendant shall notify Class Counsel and the Court of its intention to terminate this Agreement pursuant to this paragraph within 10 days after the last day on which Settlement Class Members may submit a Request for Exclusion, or the option to terminate shall be considered waived.

#### **V. Objection Procedures**

5.1 Each Class Member desiring to object to the Settlement Agreement shall submit a timely written notice of their objection by the Objection Date. Such notice shall state: (i) the objector's full name, telephone number, and address; (ii) the case name and

docket number, *In re MNGI Digestive Health, PA*, No. 27-cv-10788; (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 objector's settlement notice, copy of original notice of the Data Incident or a statement explaining why the objector believes they are a Class Member); (iv) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable; (v) the identity of any and all counsel representing the objector in connection with the objection; (vi) a statement whether the objector and/or their counsel will appear at the Final Fairness Hearing; and (vii) the objector's signature or the signature of the objector's duly authorized attorney or other duly authorized representative (if any) representing them in connection with the objection. To be timely, written notice of an objection in the appropriate form must be mailed, with a postmark date no later than the Objection Date, to the Settlement Administrator. The objector or their counsel shall also file any objection with the Court by submitting it to the Clerk of Court. For all objections mailed to the Settlement Administrator, Class Counsel will file them with the Court with the Motion for Final Approval of the Settlement, unless the Objection(s) were previously filed on the docket.

5.2 Any Class Member who fails to comply with the requirements for objecting shall waive and forfeit any and all rights they 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 of this Settlement Agreement. Without limiting the foregoing, any challenge to the Settlement

Agreement, the final order approving this Settlement Agreement or the Judgment to be entered upon final approval shall be pursuant to appeal under the Minnesota Rules of Civil Appellate Procedure and not through a collateral attack.

## **VI. Release**

6.1 Upon the Effective Date, each Class Member who did not opt-out of the Settlement Agreement, including Plaintiffs, shall be deemed to have, and by operation of the Judgment shall have, fully, finally and forever released, relinquished and discharged all Released Claims as against all Released Persons. Further, upon the Effective Date, and to the fullest extent permitted by law, each Class Member, including Plaintiffs, shall, either directly, indirectly, representatively, as a member of or on behalf of the general public or in any capacity, be permanently barred and enjoined from commencing, prosecuting or participating in any recovery in any action in this or any other forum (other than participation in the settlement as provided herein) in which any of the Released Claims are asserted. Any other claims or defenses Plaintiffs and each and all of the Class Members may have against Defendant that are not based upon or do not arise out of the institution, prosecution, assertion, settlement or resolution of the Data Incident, the Litigation or the Released Claims are specifically preserved and shall not be affected by the preceding sentence.

## **VII. Class Counsel's Attorneys' Fees, Costs and Expenses; Service Awards to Plaintiffs**

7.1 The Settling Parties did not discuss the payment of attorneys' fees, costs and expenses and/or Service Awards to Plaintiffs, until after the substantive terms of the

settlement were agreed upon, other than that reasonable attorneys' fees, costs and expenses and Service Awards to Plaintiffs as may be agreed to by Defendant and Class Counsel and as ordered by the Court shall be paid from the Settlement Fund.

7.2 Class Counsel intends to petition for an award of attorneys' fees at or below 33.33% of the Settlement Fund, or approximately \$946,155.00, and reasonable litigation expenses to be determined at final approval. Any attorneys' fees awarded by the Court shall be paid to Class Counsel within 5 days of the Effective Date. Class Counsel, in their sole discretion, shall allocate and distribute any amounts of attorneys' fees, costs and expenses awarded by the Court among Class Counsel.

7.3 Subject to Court approval, Plaintiffs intend to request Service Awards in the amount of up to \$5,000.00 for each Plaintiff as a result of Plaintiffs' time and efforts expended on behalf of the Class. Any Service Award that is awarded by the Court shall be paid to Plaintiffs within 5 days of the Effective Date.

7.4 No order of the Court, or modification or reversal or appeal of any order of the Court, concerning the amount(s) of any attorneys' fees, costs and expenses and/or Service Awards ordered by the Court to Class Counsel or Plaintiffs shall affect whether the Judgment is Final or constitute grounds for cancellation or termination of this Settlement Agreement.

7.5 Any motion requesting attorneys' fees or a Service Award shall be filed at least 21 days before the Objection and Opt-Out dates. Any response to objections shall be filed 14 days after the Objection Deadline.

## **VIII. Settlement Fund**

8.1 **Deposits.** Defendant agrees to make a payment of, and deposit that payment into, the Settlement Fund as follows: Following the Court's entry of the Preliminary Approval Order, the Settlement Administrator will issue an invoice to Defendant for the full amount of the Settlement Fund. Defendant shall pay the entire Settlement Fund within 30 days after receipt of the invoice, payment/wiring instructions, and a properly completed and duly executed IRS Form W-9, along with any other necessary forms. Settlement Administrator shall use the Settlement Fund to pay all amounts in accordance with the Settlement Agreement. For the avoidance of doubt, and for purposes of this Settlement Agreement only, Defendant's liability shall not exceed two million, eight hundred and thirty-eight thousand, seven hundred and forty-nine dollars and sixty-two cents (\$2,838,749.62).

8.2 **Custody of the Settlement Fund.** The Settlement Fund shall be deposited into an appropriate trust established by the Settlement Administrator, but shall remain subject to the jurisdiction of the Court until such time as the entirety of the Settlement Fund is distributed pursuant to the Settlement Agreement or returned to those who paid the Settlement Fund in the event this Settlement Agreement is voided, terminated or cancelled.

8.3 **Treasury Regulations and Fund Investment.** The Parties agree that the Settlement Fund is intended to be maintained as a qualified settlement fund ("QSF") 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 owed with respect to the Settlement Fund. The Parties

agree that the Settlement Fund shall be treated as a qualified settlement fund from the earliest date possible and agree to any relation-back election required to treat the Settlement Fund as a qualified settlement fund from the earliest date possible. Any and all funds held in the Settlement Fund shall be held in an interest-bearing account insured by the Federal Deposit Insurance Corporation (“FDIC”) at a financial institution determined by the Settlement Administrator and approved 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.

8.4 **Taxes.** All taxes relating to the Settlement Fund shall be paid out of the Settlement Fund, shall be considered an Administrative Fee, and shall be timely paid by the Settlement Administrator without prior order of the Court. Further, the Settlement Fund shall indemnify and hold harmless the Parties and their counsel for taxes (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 any tax treatment by any Class Representative or any 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 Class Member shall be solely responsible for the federal, state and local tax consequences to him, her, they or it of the receipt of funds from the Settlement Fund pursuant to this Agreement.

## **IX. Administration of Claims**

9.1 The Settlement Administrator shall administer and calculate the Claims submitted by Class Members. Class Counsel and Defendant shall be given reports as to both claims and distribution and have the right to review and obtain supporting documentation and challenge such reports if they believe them to be inaccurate or inadequate. The Settlement Administrator's determination of whether a Claim is a Valid Claim shall be binding, subject to the Dispute Resolution process.

9.2 Payment of Valid Claims shall be made within 45 days of the Effective Date.

9.3 All Class Members who fail to timely submit a Valid Claim for any benefits hereunder within the time frames set forth herein, or such other period as may be ordered by the Court, or otherwise allowed, shall be forever barred from receiving any payments or benefits pursuant to the settlement set forth herein, but will in all other respects be subject to, and bound by, the provisions of the Settlement Agreement, the releases contained herein and the Judgment.

9.4 No Person shall have any claim against the Settlement Administrator, Defendant, Class Counsel, Plaintiffs and/or Defendant's counsel based on distributions of benefits to Class Members.

**X. Conditions of Settlement, Effect of Disapproval, Cancellation, or Termination**

10.1 The Effective Date of the settlement shall be conditioned on the occurrence of all of the following events:

- a) Defendant has not exercised its option to terminate the Settlement Agreement pursuant to ¶ 4.3;
- b) the Court has entered the Judgment granting final approval to the settlement and certification of the Class as set forth herein; and

c) the Judgment has become Final, as defined in ¶ 1.14.

10.2 If all conditions specified in ¶ 1.14 hereof are not satisfied, the Settlement Agreement shall be canceled and terminated unless Class Counsel and Defendant's counsel mutually agree in writing to proceed with the Settlement Agreement.

10.3 Within 7 days after the Opt-Out Date, the Settlement Administrator shall furnish to Class Counsel and to Defendant's counsel a complete list of all timely and valid requests for exclusion (the "Opt-Out List").

10.4 In the event that the Settlement Agreement, including the releases, are not approved by the Court or the settlement set forth in the Settlement Agreement is terminated in accordance with its terms, (i) the Settling Parties shall be restored to their respective positions in the Litigation and shall jointly request that all scheduled Litigation deadlines be reasonably extended by the Court so as to avoid prejudice to any Settling Party or Settling Party's counsel, and (ii) the terms and provisions of the Settlement Agreement shall have no further force and effect with respect to the Settling Parties and shall not be used in the Litigation or in any other proceeding for any purpose, and any Judgment or order entered by the Court in accordance with the terms of the Settlement Agreement shall be treated as vacated, *nunc pro tunc*. Notwithstanding any statement in this Settlement Agreement to the contrary, no order of the Court or modification or reversal on appeal of any order reducing the amount of attorneys' fees, costs and expenses and/or Service Awards shall constitute grounds for cancellation or termination of the Settlement Agreement. Further, notwithstanding any statement in this Settlement Agreement to the contrary, Defendant shall be obligated to pay amounts already billed or incurred for costs



of notice to the Class, Settlement Administration and Dispute Resolution and shall not, at any time, seek recovery of the same from any other Party to the Litigation or from counsel to any other Party to the Litigation.

## **XI. Miscellaneous Provisions**

11.1 The Settling Parties (i) acknowledge that it is their intent to consummate this Agreement; and (ii) agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Settlement Agreement, and to exercise their best efforts to accomplish the terms and conditions of this Settlement Agreement.

11.2 In the event that the aggregated amount of payments of all Valid Claims (*i.e.*, Out-of-Pocket Loss Claims, Medical Monitoring, and Pro-Rata Cash Payment Claims) exceeds the total amount of the Settlement Fund remaining after payment of all costs of notice, Settlement Administration, attorneys' fees, costs and expenses and Service Awards, then the value of the payments to be paid to each Class Member making a Valid Claim shall be reduced on a *pro rata* basis, such that the aggregate value of all payments for all claims does not exceed the Settlement Fund (after payment of all Settlement Administration Fees, attorneys' fees, costs and expenses and Service Awards). All *pro rata* reduction determinations shall be made by the Settlement Administrator.

11.3 The Settling Parties intend this settlement to be a final and complete resolution of all claims and disputes between them with respect to the Data Incident and this Litigation. The settlement compromises claims, including, but not limited to, all Released Claims, that are contested and shall not be deemed an admission by any Settling Party as to the merits of any claim or defense. The Settling Parties each agree that the

settlement was negotiated in good faith by the Settling Parties and reflects a settlement that was reached voluntarily after consultation with competent legal counsel. The Settling Parties reserve their right to rebut, in a manner that such Party determines to be appropriate, any contention made in any public forum that the Litigation was brought or defended in bad faith or without a reasonable basis. It is agreed that no Party shall have any liability to any other Party as it relates to the Litigation, except as set forth herein.

11.4 Neither the Settlement Agreement, nor the settlement contained herein, nor any act performed or document executed pursuant to, or in furtherance of, the Settlement Agreement or the settlement: (i) is or may be deemed to be or may be used as an admission of, or evidence of, the validity or lack thereof of any Released Claim, or of any wrongdoing or liability of any of the Released Persons; or (ii) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Released Persons in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. Any of the Released Persons may file the Settlement Agreement and/or the Judgment in any action that may be brought against them or any of them in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

11.5 The Settlement Agreement may be amended or modified only by a written instrument signed by, or on behalf of, all Settling Parties or their respective successors-in-interest.

11.6 The Exhibits to this Settlement Agreement, and any exhibits thereto, are a material part of the Settlement Agreement and are incorporated and made a part of the Agreement.

11.7 This Settlement Agreement, including all Exhibits hereto, contain the entire understanding between Defendant and Plaintiffs, individually and on behalf of the Class and all Released Entities, regarding the payment of the Litigation settlement and supersedes all previous negotiations, agreements, commitments, understandings and writings between the Parties in connection with the payment of the Litigation settlement. Except as otherwise provided herein, each Party shall bear its own costs. This Settlement Agreement supersedes all previous agreements made between the Parties.

11.8 Class Counsel, on behalf of the Class, and Defendant's counsel, on behalf of Defendant, are expressly authorized to take all appropriate actions required or permitted to be taken by the Parties pursuant to the Settlement Agreement to effectuate its terms, and also are expressly authorized to enter into any modifications or amendments to the Settlement Agreement on behalf of the Parties which they deem appropriate in order to carry out the spirit of this Settlement Agreement and to ensure fairness to the Parties.

11.9 Each counsel or other Person executing the Settlement Agreement on behalf of any Party hereto hereby warrants that such Person has the full authority to do so.

11.10 The Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of original executed counterparts shall be filed with the Court.

11.11 The Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto.

11.12 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of the Settlement Agreement, and all Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the settlement embodied in the Settlement Agreement. The Court 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.

11.13 As used herein, “he” means “he, she, they, or it;” “his” means “his, hers, theirs, or its,” and “him” means “him, her, them, or it.”

11.14 The Settlement Agreement shall be considered to have been negotiated, executed and delivered, and to be wholly performed, in the State of Minnesota, and the rights and obligations of the Parties to the Settlement Agreement shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of Minnesota.

11.15 All dollar amounts are in United States dollars (USD).

11.16 If a Class Member opts to receive settlement benefits via mailed check, cashing the settlement check is a condition precedent to any Class Member's right to receive settlement benefits. All settlement checks shall be void 90 days after issuance and shall bear the language: "This check must be cashed within 90 days, after which time it is void." If a check becomes void, the Class Member shall have until six months after the Effective Date to request re-issuance. If no request for re-issuance is made within this period, the Class Member will have failed to meet a condition precedent to recovery of settlement benefits, the Class Member's right to receive monetary relief shall be extinguished, and there shall be no obligation to make payments to the Class Member for expense reimbursement or any other type of monetary relief. The same provisions shall apply to any re-issued check. For any checks that are issued or re-issued for any reason more than 180 days after the Effective Date, requests for re-issuance need not be honored after such checks become void.

11.17 The Settlement Website shall be deactivated 180 days after the Effective Date.

11.18 All agreements made and orders entered during the course of the Litigation relating to the confidentiality of information shall survive this Settlement Agreement.

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IN WITNESS WHEREOF, the Parties hereto have caused the Settlement Agreement to be executed, by their duly authorized attorneys.


**PLAINTIFFS:**

By: \_\_\_\_\_  
Sammie Lee Austin

Date: \_\_\_\_\_

By: *Michele Dagenais*  
Michele Dagenais (Apr 14, 2025 18:47 CDT)  
Michele Margaret Dagenais

Date: Apr 14, 2025

By:   
Dirk Hackett

Date: Apr 16, 2025

By: \_\_\_\_\_  
Kathleen Schroeder

Date: \_\_\_\_\_

By: *Debra Soberg*  
Debra Soberg (Apr 14, 2025 21:41 CDT)  
Debra Soberg

Date: Apr 14, 2025

**DEFENDANT MNGI Digestive Health, P.A.:**

By: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

IN WITNESS WHEREOF, the Parties hereto have caused the Settlement Agreement to be executed, by their duly authorized attorneys.

**PLAINTIFFS:**

By: \_\_\_\_\_  
Sammie Lee Austin

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Michele Margaret Dagenais

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Dirk Hackett

Date: \_\_\_\_\_

By: *Kathleen H Schroeder*  
Kathleen Schroeder

Date: Apr 15, 2025

By: \_\_\_\_\_  
Debra Soberg

Date: \_\_\_\_\_

**DEFENDANT MNGI Digestive Health, P.A.:**

By: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

IN WITNESS WHEREOF, the Parties hereto have caused the Settlement Agreement to be executed, by their duly authorized attorneys.

**PLAINTIFFS:**

By:   
Sammie Lee Austin

Date: 04 / 16 / 2025

By: \_\_\_\_\_  
Michele Margaret Dagenais

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Dirk Hackett

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Kathleen Schroeder

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Debra Soberg

Date: \_\_\_\_\_

**DEFENDANT MNGI Digestive Health, P.A.:**

By: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



IN WITNESS WHEREOF, the Parties hereto have caused the Settlement Agreement to be executed, by their duly authorized attorneys.

**PLAINTIFFS:**

By: \_\_\_\_\_  
Sammie Lee Austin

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Michele Margaret Dagenais

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Dirk Hackett

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Kathleen Schroeder

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Debra Soberg

Date: \_\_\_\_\_

**DEFENDANT MNGI Digestive Health, P.A.:**

Signed by:  
By: Scott R. Ketover, MD, AGAF, FASGE  
95AB83A74A3847E...

Date: 4/15/2025 | 2:43 PM CDT

Name: Scott R. Ketover, MD, AGAF, FASGE

Title: President & CEO

**Approved as to form:**

*Counsel for Defendant*

Signed by:  
By: Anthony Gabor  
Anthony Gabor (MN #032579X)  
GRIES LENHARDT ALLEN, PLLP  
12725 43rd Street, N.E., Suite 201  
St. Michael, MN 55376  
Telephone: 763-497-3099  
anthony@glalawfirm.com

Date: 4/15/2025 | 11:42 AM EDT

**Approved as to form:**

*Class Counsel*

By: \_\_\_\_\_  
Raina C. Borrelli (MN #0392127)  
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980 N Michigan Avenue, Suite 1610  
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Facsimile : (872) 263-1109  
raina@straussborrelli.com

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Christopher P. Renz (MN # 0313415)  
CHESTNUT CAMBRONNE PA  
100 Washington Avenue South, Suite 1700  
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Telephone: (612) 339-7300  
crenz@chestnutcambronne.com

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Brian C. Gudmundson (MN #0336695)  
ZIMMERMAN REED LLP  
1100 IDS Center, 80 South 8th Street  
Minneapolis, MN 55402  
Telephone: (612) 341-0400  
brian.gudmundson@zimmreed.com

Date: \_\_\_\_\_

**Approved as to form:**

*Counsel for Defendant*

By: \_\_\_\_\_  
Anthony Gabor (MN #032579X)  
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12725 43rd Street, N.E., Suite 201  
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Telephone: 763-497-3099  
anthony@glalawfirm.com

Date: \_\_\_\_\_

**Approved as to form:**

*Class Counsel*

By: *Raina Borrelli*  
Raina Borrelli (Apr 16, 2025 09:47 EDT)  
Raina C. Borrelli (MN #0392127)  
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980 N Michigan Avenue, Suite 1610  
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raina@straussborrelli.com


Date: Apr 16, 2025

By: *CR*  
Christopher P. Renz (MN # 0313415)  
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Date: Apr 16, 2025

By: *Brian Gudmundson*  
Brian Gudmundson (Apr 16, 2025 12:44 CDT)  
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Date: Apr 16, 2025

By:  Date: Apr 16, 2025  
E. Michelle Drake (MN #387366)  
BERGER MONTAGUE, PC  
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By: Melissa Weiner Date: Apr 16, 2025  
Melissa Weiner (Apr 16, 2025 14:28 CDT)  
Melissa S. Weiner (MN #0387900)  
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By: Kate Baxter-Kauf Date: Apr 16, 2025  
Kate Baxter-Kauf (Apr 16, 2025 13:43 CDT)  
Kate Baxter-Kauf (MN # 0392037)  
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By: Nathan Prosser Date: Apr 16, 2025  
Nathan D. Prosser (MN # 0329745)  
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8050 West 78th Street  
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Telephone: (952) 941-4005

By: David Goodwin Date: Apr 16, 2025  
David Goodwin (Apr 16, 2025 14:26 CDT)  
David A. Goodwin (MN #0386715)  
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120 South Sixth Street, Suite 2600  
Minneapolis, MN 19103  
Telephone: (612) 333-8844

## SETTLEMENT TIMELINE

|   |  |
|---|--|
| <b><u>From Order Granting Preliminary Approval</u></b>  | <b><u>Day 0</u></b>  |
| Defendant provides list of Class Members to the Settlement Administrator  | On or before the Preliminary Approval Order date           |
| Notice Date   | +30 days   |
| Counsel's Motion for Attorneys' Fees, Reimbursement of Litigation Costs and Expenses, and Class Representative Service Awards | +39 days after the Notice Date                             |
| Objection & Opt-Out Date  | +60 days after the Notice Date                             |
| Reminder Notice   | +60 days after the Notice Date                             |
| Settlement Administrator Provide List of Objections/Opt-Outs to the Parties' counsel  | +7 days after the Opt-Out Date                             |
| Claims Deadline   | +90 days after the Notice Date                             |
|   |  |
| <b><u>Final Fairness Hearing</u></b>  | +100 (at minimum) from Order Granting Preliminary Approval |
| Motion for Final Approval   | -14 days   |

# EXHIBIT A

***MNGI Data Incident Litigation***  
**Settlement Administrator**  
**P.O. BOX XXXX**  
**PORTLAND, OR 972XX-XXXX**  
**[www.MNGIsettlement.com](http://www.MNGIsettlement.com)**

*This information will be used to contact you and process your Claim Form. It will not be used for any other purpose. If any of the following information changes, you must promptly provide your updated information by mail to **P.O. Box XXXX, Portland, OR 97228-XXXX**.*

[illegible]

You can receive reimbursement for up to \$10,000.00 for documented unreimbursed out-of-pocket expenses fairly traceable to the Data Incident. You must attach documents to your Claim Form that show what happened and how much you lost or spent so that you can be repaid. This may include receipts or other documentation. “Self-prepared” documentation such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but may be considered to add clarity or support to other submitted documentation.

| Expense Types and Examples of Documents  | Approximate Amount of Expense and Date                                | Description of Expense or Money Spent and Supporting Documents<br>(Identify what you are attaching and why it's related to the Data Incident) |
|--|---|---|
| <b>Unreimbursed Bank Fees</b><br><br><i>Examples: Bank statements with fees, such as card reissuance, unreimbursed overdraft and late fees</i> | \$ _____<br><br>_____<br>MM                  DD                  YYYY | _____<br>_____<br>_____<br>_____  |
| <b>Unpaid Time Off Work</b><br><br><i>Example: Work Notes, Time Stamps</i>   | \$ _____<br><br>_____<br>MM                  DD                  YYYY | _____<br>_____<br>_____<br>_____  |





### How You Will Receive Your Cash Payment

Approved claims for a cash payment submitted in this Claim Form will be paid by check. If you would like to receive your payment by a digital payment option (e.g., an ACH direct deposit or prepaid debit card using instructions emailed to you), you must file a claim online at [www.MNGIsettlement.com](http://www.MNGIsettlement.com).

I affirm under the laws of the United States that the information supplied in this Claim Form is true and correct to the best of my knowledge, and any documents I submitted in support of my claim are true and correct copies of original documentation.

I understand that I may be asked to provide more information by the Claims Administrator before my claim is complete.

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

# EXHIBIT B

# You may be entitled to benefits from a Settlement due to the potential compromise of your Private Information in the Data Incident Involving MNGI Digestive Health, P.A. in August 2023.

*A Court authorized this Notice. This is not a solicitation from a lawyer.*

- A \$2,838,749.62 settlement has been reached in a class action lawsuit against MNGI Digestive Health, P.A. (“Defendant”) involving a Data Incident experienced on or around August 20, 2023, that involved an unauthorized third-party accessing Defendant’s network and computer systems and potentially accessing the Private Information of Class Members. The Private Information involved potentially included full names, dates of birth, passport numbers, drivers’ license or state identification numbers, medical information, health insurance information, payment card information, account numbers, and Social Security numbers. Plaintiffs also alleged negligence, negligence *per se*, breach of implied contract, unjust enrichment, breach of fiduciary duty, and violations of various Minnesota laws.
- The Class includes: all individuals to whom Defendant sent notice of the security breach incident that Defendant experienced on or about August 20, 2023. 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 (including any members of the Court’s staff assigned to this case); (iii) Defendant’s officers and directors, and (iv) 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.
- If you are a member of the Class, you can submit a Claim Form for the following Settlement benefits:  
**Out-of-Pocket Losses:** You may submit a Claim Form with documentation for unreimbursed costs, expenses, and losses fairly traceable to the Data Incident for up to \$10,000 per Class Member; **AND**  
**Cash Payment:** Without providing documentation, you may submit a Claim Form to receive a pro rata (a legal term meaning equal share) cash payment; **AND**  
**Medical Monitoring:** You may also submit a Claim Form to receive two years of free Medical Monitoring.

Your Out-of-Pocket Losses cash payment may be subject to a pro rata decrease and your Cash Payment may be subject to a pro rata increase or decrease depending upon the total value of the Valid Claims submitted.

**This Notice may affect your rights. Please read it carefully.**

| Your Legal Rights & Options     |  | Deadline   |
|---------------------------------|--|--|
| <b>Submit a Claim Form</b>      | The only way to get Settlement benefits is to submit a timely and valid Claim Form.  | Submitted or Postmarked by:<br><b>MONTH DD, 20YY</b> |
| <b>Exclude Yourself</b>         | Get no Settlement benefits. Keep your right to file your own lawsuit against the Released Persons about the Released Claims that are released by the Settlement in this lawsuit. | Postmarked by:<br><b>MONTH DD, 20YY</b>              |
| <b>Object to the Settlement</b> | Stay in the Settlement, but tell the Court why you do not agree with the Settlement. You will still be bound by the Settlement if the Court approves it.                         | Filed by:<br><b>MONTH DD, 20YY</b>                   |
| <b>Do Nothing</b>               | Get no Settlement benefits. Give up your legal rights.   |  |

- These rights and options—and the deadlines to exercise them—are explained in this Notice.
- The Court must decide whether to approve the Settlement, attorneys’ fees, expenses, and Service Awards. No Settlement benefits will be provided unless the Court approves the Settlement.

**Questions? Go to [www.XXXXXXXXXX.com](http://www.XXXXXXXXXX.com) or call 1-XXX-XXX-XXXX**

## BASIC INFORMATION

### 1. Why is this Notice being provided?

A court authorized this Notice because you have the right to know about the Settlement of this class action lawsuit and about all of your rights and options before the Court decides whether to grant final approval to the Settlement. This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for the benefits, and how to get them.

The Honorable Judge Nelson Peralta of the Fourth Judicial District in the Hennepin County District Court for the State of Minnesota, is overseeing this class action. The lawsuit is known as *In re MNGI Digestive Health, P.A.*, Court File No. 27-CV-24-10788 (the “lawsuit”). The individuals who filed this lawsuit are called the “Plaintiffs” and/or “Class Representatives” and the company sued, MNGI Digestive Health, P.A. is called the “Defendant.”

### 2. What is this lawsuit about?

The Plaintiffs filed this lawsuit against Defendant on behalf of Class Members regarding a Data Incident experienced on or around August 20, 2023, that involved an unauthorized third-party accessing Defendant’s network and computer systems and potentially accessing the Private Information of Class Members. The Private Information involved potentially included Class Members’ full names, dates of birth, passport numbers, drivers’ license or state identification numbers, medical information, health insurance information, payment card information, account numbers, and Social Security numbers.

Plaintiffs also alleged negligence, negligence *per se*, breach of implied contract, unjust enrichment, breach of fiduciary duty, violations of the Minnesota Consumer Fraud Act, violations of the Minnesota Uniform Deceptive Trade Practices Act, and violations of the Minnesota Health Records Act.

Defendant denies the legal claims and denies any wrongdoing or liability. The Court has not made any determination of any wrongdoing by Defendant, or that any law has been violated. Instead, the Plaintiffs and Defendant have agreed to a settlement to avoid the risk, cost, and time of continuing the lawsuit.

### 3. Why is there a Settlement?

The Plaintiffs and Defendant do not agree about the legal claims made in this lawsuit. The lawsuit has not gone to trial, and the Court has not decided in favor of the Plaintiffs or Defendant. Instead, the Plaintiffs and Defendant have agreed to settle the lawsuit. The Class Representatives, Defendant, and their lawyers believe the Settlement is best for Class Members because of the Settlement benefits available and the risks and uncertainty associated with continuing the lawsuit.

### 4. Why is this lawsuit a class action?

In a class action, one or more people (called class representatives) sue on behalf of all people who have similar legal claims. Together, all these people are called a class or class members. One court resolves the issues for all class members, except for those class members who timely exclude themselves (opt-out) from the class.

## WHO IS INCLUDED IN THE SETTLEMENT?

### 5. How do I know if I am included in the Settlement?

You are included in the Class if you are an individual to whom Defendant sent notice of the security breach incident that Defendant experienced on or about August 20, 2023.

### 6. Are there exceptions to being included in the Settlement?

Yes. Excluded from the Class are: (i) all Persons who timely and validly request exclusion from the Class; (ii) the Judge assigned to evaluate the fairness of this settlement (including any members of the Court's staff assigned to this lawsuit); (iii) Defendant's officers and directors, and (iv) 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.

### 7. What if I am still not sure whether I am part of the Settlement?

If you are still not sure whether you are a Class Member, you may go to [www.XXXXXXXXXX.com](http://www.XXXXXXXXXX.com) or call toll-free 1-XXX-XXX-XXXX.

## THE SETTLEMENT BENEFITS

### 8. What does this Settlement provide?

If you are a Class Member, you can submit a Claim Form for the following Settlement benefits:

#### **Out-of-Pocket Losses**

You may submit a Claim Form with documentation for unreimbursed costs, expenses, and losses fairly traceable to the Data Incident for up to \$10,000 per Class Member.

To submit a Claim Form for Out-of-Pocket Losses, you must provide: (1) your name and current address; (2) documentation reasonably supporting your Claim Form; and (3) a brief description of the nature of the loss, if the nature of the loss is not apparent from the documentation alone.

Examples of expenses incurred as a result of the Data Incident, include (without limitation):

- Unreimbursed costs, expenses, losses or charges incurred as a result of identity theft or identity fraud, falsified tax returns or other possible misuse of your Social Security number;
- Unreimbursed costs incurred on or after August 20, 2023, associated with accessing or freezing/unfreezing credit reports with any credit reporting agency;
- Other unreimbursed miscellaneous expenses incurred related to any Out-of-Pocket Losses such as notary, fax, postage, copying, mileage and long-distance telephone charges;
- Other mitigative costs that were incurred on or after August 20, 2023, through the date you submit your Claim Form; and
- Unpaid time off work to address issues fairly traceable to the Data Incident at your actual hourly rate.

Class Members who elect to submit a claim for reimbursement of Out-of-Pocket Losses must provide to the Settlement Administrator information required to evaluate the claim, including: (1) the Class

**Questions? Go to [www.XXXXXXXXXX.com](http://www.XXXXXXXXXX.com) or call 1-XXX-XXX-XXXX**

Member's name and current address; (2) documentation reasonably supporting their claim; and (3) a brief description of the nature of the loss, if the nature of the loss is not apparent from the documentation alone.

Documentation supporting Out-of-Pocket Losses can include receipts or other documentation not "self-prepared" by the Class Member concerning the costs incurred. "Self-prepared" documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but can be considered to clarify or support other submitted documentation.

Out-of-Pocket Losses will be deemed "fairly traceable" if: (1) the timing of the loss occurred on or after August 20, 2023, and (2) in the Settlement Administrator's sole determination, the Out-of-Pocket Losses could reasonably be caused by the Data Incident.

Claims for Out-of-Pocket Losses may be reduced pro rata in the unlikely event that insufficient funds remain in the Settlement Fund after the payment of Attorneys' Fees and Expenses Award, any Service Awards and Administration Fees.

### **Cash Payment**

Without providing documentation, you may also submit a Claim Form to receive a pro rata (a legal term meaning equal share) cash payment.

Your Cash Payment may be subject to a pro rata (a legal term meaning equal share) increase or decrease based on the remaining funds in the Net Settlement Fund after payment of Valid Claims for Out-of-Pocket Losses and Medical Monitoring.

For purposes of calculating the pro rata increase or decrease, the Settlement Administrator must distribute the funds in the Net Settlement Fund first for payment of Out-of-Pocket Losses and then for Medical Monitoring.

### **Medical Monitoring**

You may also submit a Claim Form to receive two years of free Medical Monitoring.

## **9. What am I giving up to receive Settlement benefits or stay in the Class?**

Unless you exclude yourself (opt-out), you will remain in the Class. If the Settlement is approved and becomes final, all Court orders and any judgments will apply to you and legally bind you. You will not be able to sue, continue to sue, or be part of any other lawsuit against the Released Persons about the Released Claims in this lawsuit. The specific rights you are giving up are called "Released Claims."

## **10. What are the Released Claims?**

Section VI of the Settlement Agreement describes the Release, Released Claims, and Released Persons, in necessary legal terminology, so please read this section carefully. The Settlement Agreement is available at [www.XXXXXXXXXXX.com](http://www.XXXXXXXXXXX.com). For questions regarding the Release, Released Claims, or Released Persons and what the language in the Settlement Agreement means, you can also contact Class Counsel listed below for free, or you can talk to your own lawyer at your own expense.

## HOW TO GET BENEFITS FROM THE SETTLEMENT

### 11. How do I submit a Claim Form?

You must submit a timely and valid Claim Form to receive any Settlement benefits as described above. Your Claim Form must be submitted online at [www.XXXXXXXXXX.com](http://www.XXXXXXXXXX.com) by **MONTH DD, 20YY**, or mailed to the Settlement Administrator at the address on the Claim Form, **postmarked** by **Month DD, 20YY**. Claim Forms are also available at [www.XXXXXXXXXX.com](http://www.XXXXXXXXXX.com) or by calling 1-XXX-XXX-XXXX or by writing to:

*MNGI Data Incident Litigation*  
Settlement Administrator  
PO Box XXXX  
Portland, OR 972XX-XXXX

### 12. What happens if my contact information changes after I submit a Claim Form?

If you change your mailing address or email address after you submit a Claim Form, it is your responsibility to inform the Settlement Administrator of your updated information. You may notify the Settlement Administrator of any changes by writing to:

*MNGI Data Incident Litigation*  
Settlement Administrator  
PO Box XXXX  
Portland, OR 972XX-XXXX

### 13. When will I receive my Settlement benefits?

If you file a timely and valid Claim Form, the Settlement benefits will be provided after the Settlement is approved by the Court and becomes final.

It may take time for the Settlement to be approved and become final. Please be patient and check [www.XXXXXXXXXXXXXX.com](http://www.XXXXXXXXXXXXXX.com) for updates.

## EXCLUDE YOURSELF OR OPT-OUT OF THE SETTLEMENT

If you are a member of the Class and want to keep any right you may have to sue or continue to sue the Released Persons on your own about the legal claims in this lawsuit or the Released Claims, then you must take steps to get out of the Settlement. This is called excluding yourself from—or “opting-out” of—the Settlement.

### 14. How do I opt out of the Settlement?

To exclude yourself from the Settlement, you must mail a written request for exclusion, which includes the following:

- 1) Your full name and current address;
- 2) Your personal physical signature; and
- 3) A statement that you want to be excluded from the Class, such as “I hereby request to be excluded from the Class in the *MNGI Data Incident Litigation*.”

The exclusion request must be **mailed** to the Settlement Administrator at the following address, and be **postmarked** by **MONTH DD, 20YY**:

**Questions? Go to [www.XXXXXXXXXX.com](http://www.XXXXXXXXXX.com) or call 1-XXX-XXX-XXXX**

*MNGI Data Incident Litigation*  
Settlement Administrator  
PO Box XXXX  
Portland, OR 972XX-XXXX

**You cannot opt out (exclude yourself) by telephone or by email.**

**15. If I opt out can I still get anything from the Settlement?**

No. If you opt-out, you will not be able to receive Settlement benefits, and you will not be bound by the Settlement or any judgments in this lawsuit. You can only get Settlement benefits if you stay in the Settlement and submit a timely and valid Claim Form.

**16. If I do not opt out, can I sue the Defendant for the same thing later?**

No. Unless you opt-out, you give up any right to sue any of the Released Persons for the legal claims this Settlement resolves and Releases, and you will be bound by all the terms of the Settlement, proceedings, orders, and judgments in the lawsuit. You must opt out of this lawsuit to start or continue your own lawsuit or be part of any other lawsuit against the Released Persons about the Released Claims in this Settlement. If you have a pending lawsuit, speak to your lawyer in that lawsuit immediately.

## **OBJECTING TO THE SETTLEMENT**

**17. How do I tell the Court I do not like the Settlement?**

If you are a Class Member, you can tell the Court you do not agree with all or any part of the Settlement Agreement.

To object, you must file your written objection with the Court as provided below by **MONTH DD, 20YY**, and send by U.S. mail to the Settlement Administrator **postmarked** by **MONTH DD, 20YY**, stating you object to the Settlement in *In re MNGI Digestive Health, P.A.*, No. 27-CV-24-10788.

To file an objection, you cannot exclude yourself from the Class. Your objection must include all of the following information:

- 1) Your full name, telephone number, and address;
- 2) The case name and docket number, *In re MNGI Digestive Health, PA*, No. 27-cv-10788;
- 3) Information identifying you as a Class Member, including proof that you are a Member of the Class (e.g., copy of your settlement notice, copy of original notice of the Data Incident or a statement explaining why you believe you are a Class Member);
- 4) A written statement of all grounds for the objection, accompanied by any legal support for the objection that you believe is applicable;
- 5) The identity of any and all lawyers representing you in connection with the objection;
- 6) A statement whether you and/or your lawyer will appear at the Final Fairness Hearing; and
- 7) Your signature or the signature of your duly authorized lawyer or other duly authorized representative (if any) representing you in connection with the objection.

To object, you must file your timely written objection with the Court as provided below by **MONTH DD, 20YY**, and send it by U.S. mail to the Settlement Administrator **postmarked** by **MONTH DD, 20YY**, at the following addresses:

**Questions? Go to [www.XXXXXXXXXX.com](http://www.XXXXXXXXXX.com) or call 1-XXX-XXX-XXXX**



| COURT  | SETTLEMENT ADMINISTRATOR   |
|--|--|
| Clerk of Court<br>Hennepin County Government Center<br>Fourth Judicial District<br>300 S 6 <sup>th</sup> Street<br>Minneapolis, MN 55487 | <i>MNGI Data Incident Litigation</i><br>Settlement Administrator<br>PO Box XXXX<br>Portland, OR 972XX-XXXX |

### 18. What is the difference between objecting and asking to be excluded?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object only if you stay in the Class. If you opt-out, you are telling the Court that you do not want to be part of the Class. If you opt-out, you cannot object because you are no longer part of the Settlement.

## THE LAWYERS REPRESENTING YOU

### 19. Do I have a lawyer in the lawsuit?

Yes. The Court has appointed Raina Borrelli (Strauss Borrelli PLLC), Christopher P. Renz (Chestnut Cambronne PA), Brian Gudmundson (Zimmerman Reed LLP), E. Michelle Drake (Berger Montague PC), Melissa Weiner (Pearson Warshaw, LLP), Kate Baxter-Kauf (Lockridge Grindal Nauen PLLP), Nathan Prosser (Hellmuth & Johnson PLLC) and David Goodwin (Gustafson Gluek PLLC) as Class Counsel to represent you and the Class for the purposes of this Settlement. You may hire your own lawyer at your own cost if you want someone other than Class Counsel to represent you in this lawsuit.

### 20. How will Class Counsel be paid?

Class Counsel will file a motion asking the Court to award the attorneys' fees at or below 33.33% of the Settlement Fund, or approximately \$946,155, plus reasonable expenses. Class Counsel will also ask the Court to approve the Service Awards for the Class Representatives of up to \$5,000 each for their efforts. If awarded by the Court, the attorneys' fees and expenses, and the Service Awards will be paid from the Settlement Fund. The Court may award less than these amounts.

## THE FINAL FAIRNESS HEARING

The Court will hold a "Final Fairness Hearing" to decide whether to approve the Settlement, Class Counsel's attorneys' fees, expenses, and Service Awards. You may attend and you may ask to speak if you file an objection by the deadline, but you do not have to.

### 21. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Fairness Hearing on **MONTH DD, 20YY, at XX:XX a.m./p.m.** before the Honorable Judge Nelson Peralta at the Hennepin County Government Center, 300 S 6<sup>th</sup> Street, Minneapolis, MN 55487. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate and decide whether to approve the Settlement, Class Counsel's attorneys' fees, expenses, and Service Awards.

If there are objections that were filed by the deadline, the Court will consider them. If you file a timely objection, and you (or your lawyer) ask to speak at the hearing, the Court may also listen to you or your lawyer speak at the hearing.

**Questions? Go to [www.XXXXXXXXXX.com](http://www.XXXXXXXXXX.com) or call 1-XXX-XXX-XXXX**

**Note:** The date and time of the Final Fairness Hearing are subject to change without further notice to the Class. The Court may also decide to hold the hearing via video conference or by telephone. You should check the Settlement Website [www.XXXXXXXXXX.com](http://www.XXXXXXXXXX.com) to confirm the date and time of the Final Fairness Hearing have not changed.

## **22. Do I have to attend the Final Fairness Hearing?**

No. Class Counsel will answer any questions the Court may have. However, you are welcome to attend at your own expense. If you file an objection, you do not have to attend the Final Fairness Hearing to speak about it. As long as you file your written objection by the deadline, the Court will consider it.

## **23. May I speak at the Final Fairness Hearing?**

Yes, as long as you do not exclude yourself (opt out) and you file a timely written objection requesting to speak at the hearing, you can (but do not have to) participate and speak for yourself at the Final Fairness Hearing. This is called making an appearance. You also can have your own lawyer speak for you, but you will have to pay for the lawyer yourself.

If you want to appear, or if you want your own lawyer instead of Class Counsel to speak for you at the hearing, you must follow all of the procedures for objecting to the Settlement listed above—and specifically include a statement whether you and your counsel will appear at the Final Fairness Hearing.

## **GET MORE INFORMATION**

## **24. How do I get more information about the Settlement?**

This Notice summarizes the Settlement. Complete details about the Settlement are provided in the Settlement Agreement. The Settlement Agreement and other related documents are available at [www.XXXXXXXXXX.com](http://www.XXXXXXXXXX.com). You may get additional information at [www.XXXXXXXXXX.com](http://www.XXXXXXXXXX.com), by calling toll-free 1-XXX-XXX-XXXX, or by writing to:

*MNGI Data Incident Litigation*  
Settlement Administrator  
PO Box XXXX  
Portland, OR 972XX-XXXX

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT'S CLERK OFFICE  
REGARDING THIS NOTICE.**

**Questions? Go to [www.XXXXXXXXXX.com](http://www.XXXXXXXXXX.com) or call 1-XXX-XXX-XXXX**

# EXHIBIT C

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT  
CASE TYPE: CIVIL/OTHER MISCELLANEOUS  
Court File No.: 27-CV-24-10788

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*In re: MNGI Digestive Health, PA*

**[PROPOSED] ORDER GRANTING  
PLAINTIFFS' UNOPPOSED MOTION  
FOR PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT AND  
CLASS NOTICE PLAN**

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This matter comes before the Court on Plaintiffs' Motion for Preliminary Approval of Class Action Settlement and Class Notice Plan ("Motion"). The Court has reviewed the Motion and the Settlement Agreement entered into by Plaintiffs Sammie Lee Austin, Michele Margaret Dagenais, Dirk Hackett, Kathleen Schroeder and Debra Soberg ("Plaintiffs") and Defendant MNGI Digestive Health, P.A. ("Defendant"), and it finds that the Motion should be **GRANTED**.<sup>1</sup>

**IT IS HEREBY ORDERED THAT:**

1. The Settlement Agreement and the proposed notice plan, including the Short Notice, Long Notice, Reminder Notice, Settlement Website and Claim Form, the appointment of Plaintiffs Sammie Lee Austin, Michele Margaret Dagenais, Dirk Hackett, Kathleen Schroeder and Debra Soberg as the Class Representatives, the appointment of Class Counsel for Plaintiffs and the Class, the appointment of Epiq Class Action & Claims Solutions, Inc. as the Settlement Administrator, the Class Relief provided under the terms of the Settlement Agreement and

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<sup>1</sup> Capitalized terms used herein, but not defined herein, shall have the meaning ascribed to such terms in the Settlement Agreement.

proposed method of distribution of Settlement Agreement benefits are fair, reasonable and adequate, subject to further consideration at the Final Fairness Hearing described below.

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

All individuals to whom Defendant sent notice of the security incident that Defendant announced on or about February 2022.

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 Agreement (including any members of the Court's staff assigned to this case);
- (iii) Defendant's officers and directors, and
- (iv) 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 upon information provided and solely for settlement purposes, the Court preliminarily finds: the Class is ascertainable and satisfies numerosity; there are common questions of law and fact, including whether Defendant's Data Incident potentially compromised Plaintiffs' and Class Members' personal identifying information and personal health information (collectively, "Private Information"), satisfying commonality; the proposed Class Representatives' claims are typical, in that they are Class Members and allege they received notice from Defendant that their Private Information was potentially compromised in Defendant's Data Incident, thereby alleging they have been damaged by the same conduct as other Class Members; the proposed Class Representatives and Class Counsel will 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 for settlement purposes; and a class action is superior to other available methods for the fair and efficient adjudication of this Litigation.

4. The Court preliminarily appoints Sammie Lee Austin, Michele Margaret Dagenais, Dirk Hackett, Kathleen Schroeder and Debra Soberg as the Class Representatives.

5. The Court preliminarily appoints Raina Borrelli (Strauss Borrelli PLLC), Christopher P. Renz (Chestnut Cambronne PA), Brian Gudmundson (Zimmerman Reed LLP), E. Michelle Drake (Berger Montague PC), Melissa Weiner (Pearson Warshaw, LLP), Kate Baxter-Kauf (Lockridge Grindal Nauen PLLP), Nathan Prosser (Hellmuth & Johnson PLLC) and David Goodwin (Gustafson Gluek PLLC) as Class Counsel.

6. The Court appoints Epiq Class Action & Claims Solutions, Inc as Settlement Administrator.

7. The Court approves, as to the form and content, the proposed notice plan, including the Short Notice, Long Notice, Reminder Notice, Settlement Website and Claim Form, as compliant with due process as the notices, form and manner of transmission are reasonably calculated to adequately apprise Class Members of the following:

- (a) a fair summary of the Parties' respective litigation positions,
  - (b) statements that the Settlement Agreement and notice of settlement are legitimate and that the Class Members are entitled to benefits under the Settlement Agreement
  - (c) the general terms of the settlement set forth in the Settlement Agreement,
  - (d) instructions for how to object to or opt-out of the Settlement Agreement,
  - (e) instructions for how to obtain the Settlement Agreement benefits,
  - (f) the process and instructions for making claims to the extent contemplated herein,
- and

(g) the date, time and place of the Final Fairness Hearing.

8. The Notice Date shall be thirty (30) days after the entry of this Order Granting Plaintiffs' Motion for Preliminary Approval Of Class Action Settlement and Class Notice Plan.

9. In order to be a Valid Claim under the Settlement Agreement, a Claim Form must be postmarked or submitted online no later than ninety (90) days after the Notice Date. The Settlement Administrator will ensure that all specific dates and deadlines are included in the notices and posted on the Settlement Website after this Court enters this Order in accordance with the settlement timeline below.

10. All requests to Opt-Out of the proposed Settlement Agreement must be postmarked to be sent to the Settlement Administrator no later than sixty (60) days after the Notice Date. For an Opt-Out to be valid, the written notice of intent must be individually signed by the Class Member and clearly: (i) state the Class Member's full name, current address, and signature; and (ii) manifest the Person's intent to opt-out of the Class.

11. All objections to the proposed Settlement Agreement must be postmarked to be sent to the Settlement Administrator or filed by Class Members with the Court no later than sixty (60) days after the Preliminary Approval Order date. For an objection to be valid, the written notice of objection shall state: (i) the objector's full name, telephone number, and address; (ii) the case name and docket number, *In re MNGI Digestive Health, PA*, No. 27-cv-10788; (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 objector's settlement notice, copy of original notice of the Data Incident or a statement explaining why the objector believes they are a Class Member); (iv) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable; (v) the identity of any and all counsel representing the objector in connection

with the objection; (vi) a statement whether the objector and/or their counsel will appear at the Final Fairness Hearing; and (vii) the objector's signature or the signature of the objector's duly authorized attorney or other duly authorized representative (if any) representing them in connection with the objection.

12. Any Class Member who fails to comply with the requirements for objecting shall waive and forfeit any and all rights they 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.

13. Any Class Member who did not opt-out of the Settlement Agreement, including Plaintiffs, shall be deemed to have, and by operation of the Judgment shall have, fully, finally and forever released, relinquished and discharged all Released Claims as against all Released Persons.

14. Based on the foregoing, the proposed form of notice, including the Short Notice, Long Notice, Reminder Notice, Settlement Website and Claim Form are hereby approved.

15. Immaterial revisions to the proposed notice program, including the Short Notice, Long Notice, Reminder Notice, Settlement Website and Claim Form, may also be made prior to dissemination of notice.

16. The Court approves the implementation of the notice plan, including the Short Notice, Long Notice, Reminder Notice, Settlement Website and Claim Form, substantially in the form as presented in the exhibits to the Motion, and finds that such notice program meets the requirements of Minn. R. Civ. P. 23 and due process, and is the best notice practicable under the circumstances, including emailed or mailed notice at addresses provided by Defendant, the best party available to hold this information, and a Settlement Website, and shall constitute due and efficient notice to all persons or entities entitled to notice.



17. A Final Fairness Hearing shall be held before the Court on \_\_\_\_\_, 2025 at \_\_\_\_\_ am/pm for the following purposes:

- a. To determine whether the proposed Settlement Agreement on the terms and conditions provided for by the Agreement is fair, reasonable, and adequate to the Class and should be approved by the Court;
- b. To determine whether a Final Approval Order and Judgment, as defined in the Agreement, should be entered;
- c. To determine whether the notice plan as implemented was appropriate and whether the claims process under the Settlement Agreement is fair and reasonable, and should be approved by the Court;
- d. To determine whether Plaintiffs' Motion for Attorneys' Fees, Costs and Expenses, and Service Awards, should be approved; and
- e. To rule upon such other matters as the Court may deem appropriate.

18. The Court hereby sets the below schedule for the dissemination of notice to the Class and for the Court's Final Fairness Hearing, at which time the Court will determine whether the Settlement Agreement should be finally approved as fair, reasonable and adequate. The Final Fairness Hearing may be held remotely, and if so, instructions will be posted on the Settlement Website.

## SETTLEMENT TIMELINE

| <b><u>From Order Granting Preliminary Approval</u></b>  | <b><u>Day 0</u></b>  |
|---|--|
| Defendant provides list of Class Members to the Settlement Administrator                          | On or before the Preliminary Approval Order date           |
| Notice Date   | +30 days   |
| Counsel's Motion for Attorneys' Fees, Costs and Expenses, and Class Representative Service Awards | +39 days after the Notice Date                             |
| Objection & Opt-Out Date  | +60 days after the Notice Date                             |
| Reminder Notice   | +60 days after the Notice Date                             |
| Settlement Administrator Provide List of Objections/Opt-Outs to the Parties' counsel              | +7 days after the Opt-Out Date                             |
| Claims Deadline   | +90 days after the Notice Date                             |
| <b><u>Final Fairness Hearing</u></b>  | +100 (at minimum) from Order Granting Preliminary Approval |
| Motion for Final Approval   | -14 days   |

19. In the event that the Settlement Agreement, including the releases, are not approved by the Court or the settlement set forth in the Settlement Agreement is terminated in accordance with its terms, (i) the Settling Parties shall be restored to their respective positions in the Litigation and shall jointly request that all scheduled Litigation deadlines be reasonably extended by the Court so as to avoid prejudice to any Settling Party or Settling Party's counsel, and (ii) the terms and provisions of the Settlement Agreement shall have no further force and effect with respect to the Settling Parties and shall not be used in the Litigation or in any other proceeding for any purpose, and any Judgment or order entered by the Court in accordance with the terms of the Settlement Agreement shall be treated as vacated, *nunc pro tunc*.

20. This Order and the Settlement Agreement, and any of their terms, and all negotiations, discussions, and proceedings in connection with this Order and the Settlement

Agreement, shall not constitute evidence, or an admission by Defendant that any acts of wrongdoing have been committed and shall not be deemed to create any inference that there is any liability on the part of Defendant. This Order and the Settlement Agreement, and any of their terms, and all negotiations, discussions and proceedings in connection with this Order and the Settlement Agreement shall not be offered or received in evidence or used for any purpose in this or any other proceeding in any court, administrative agency, arbitration tribunal, or other forum of any kind of character in the United States or any other country except as necessary to enforce the terms of this Order or the Settlement Agreement.

21. The Court reserves the right to adjourn the date of the Final Fairness Hearing without further notice to the Class Members and retains jurisdiction to consider all further applications or matters arising out of or connected with the proposed Settlement Agreement. The Court may approve the Settlement Agreement, with such modifications as may be agreed to by the Plaintiffs and Defendant, if appropriate, without further notice to the Class.

**IT IS SO ORDERED.**

DATED: April \_\_, 2025

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The Honorable Nelson Peralta  
Judge of Hennepin County District Court

# EXHIBIT D

To: <<Class Member Email>>

From: Settlement Administrator <xxxx@XXXXXXX.com>

Subject: MNGI Court Ordered Notice of Class Action Settlement

Unique ID: <<UniqueID>> <<PIN>>

**You may be entitled to benefits from a Settlement due to the potential compromise of your Private Information in the Data Incident Involving MNGI Digestive Health, P.A. In August 2023.**

*A court authorized this notice. This is not a solicitation from a lawyer.*

**REMINDER NOTICE**

Our records indicate you are a Class Member and have not yet filed a Claim Form.

You **must submit a Claim Form** either [here](#) or by mail postmarked by **Month DD, 20YY**, to receive Settlement benefits.

What is this Notice About? As a Class Member you may be entitled to a cash payment from a \$2,838,749.62 settlement for a class action lawsuit against MNGI Digestive Health, P.A. The lawsuit is for a Data Incident experienced on or around August 20, 2023, that involved an unauthorized third-party accessing Defendant's network and computer systems and potentially accessing the Private Information of Class Members – potentially including full names, dates of birth, passport numbers, drivers' license or state identification numbers, medical information, health insurance information, payment card information, account numbers, and Social Security numbers.

**What Does the Settlement Provide?** As a Class Member, you can submit a Claim Form [here](#) or by mail postmarked by **Month XX, 20YY**, for the following Settlement benefits:

- **Out-of-Pocket Losses:** You may submit a Claim Form with documentation for unreimbursed costs, expenses, and losses fairly traceable to the Data Incident for up to \$10,000 per Class Member; **AND**
- **Cash Payment:** Without providing documentation, you may submit a Claim Form to receive a pro rata (a legal term meaning equal share) cash payment; **AND**
- **Medical Monitoring:** You may also submit a Claim Form to receive two years of free Medical Monitoring.

Your Out-of-Pocket Losses cash payment may be subject to a pro rata decrease and your Cash Payment may be subject to a pro rata adjustment depending upon the total value of the Valid Claims submitted. More information is available [here](#) in the Settlement Agreement or the Long Form Notice.

For more information on filing a Claim Form, please call the toll-free telephone number at 1-xxx-xxx-xxxx or visit [here](#).

MNGI Data Incident Litigation  
Settlement Administrator  
PO Box XXXX  
Portland, OR 972XX-XXXX

**BARCODE  
NO-PRINT  
ZONE**

FIRST-CLASS MAIL  
U.S. POSTAGE  
PAID  
Portland, OR  
PERMIT NO.xxxx

Court-Approved Legal Notice

**You may be entitled to benefits from a  
Settlement due to the potential  
compromise of your Private  
Information in the Data Incident  
involving MNGI Digestive Health, P.A.  
in August 2023.**

**The deadline to submit your  
Claim Form is  
Month DD, 20YY**

<<MAIL ID>>  
<<NAME 1>>  
<<NAME 2>>  
<<ADDRESS LINE 1>>  
<<ADDRESS LINE 2>>  
<<ADDRESS LINE 3>>  
<<ADDRESS LINE 4>>  
<<ADDRESS LINE 5>>  
<<CITY, STATE ZIP>>  
<<COUNTRY>>

## **REMINDER NOTICE**

**Our records indicate you are a Class Member and have not yet filed a Claim Form.**

You **must submit a Claim Form** either online or by mail postmarked by **Month DD, 20YY**, to receive Settlement benefits.

As a Class Member you may be entitled to a cash payment from a \$2,838,749.62 settlement for a class action lawsuit against MNGI Digestive Health, P.A. The lawsuit is for a Data Incident experienced on or around August 20, 2023, that involved an unauthorized third-party accessing Defendant's network and computer systems and potentially accessing the Private Information of Class Members – potentially including full names, dates of birth, passport numbers, drivers' license or state identification numbers, medical information, health insurance information, payment card information, account numbers, and Social Security numbers.

You must submit a Claim Form online or by mail **postmarked by Month XX, 20YY** to receive the following Settlement benefits:

**Out-of-Pocket Losses:** You may submit a Claim Form with documentation for unreimbursed costs, expenses, losses fairly traceable to the Data Incident for up to \$10,000 per Class Member; **AND**

**Cash Payment:** Without providing documentation, you may submit a Claim Form to receive a pro rata (a legal term meaning equal share) cash payment; **AND**

**Medical Monitoring:** You may also submit a Claim Form to receive two years of free Medical Monitoring.

Your Out-of-Pocket Losses cash payment may be subject to a pro rata decrease and your Cash Payment may be subject to a pro rata adjustment depending upon the total value of the Valid Claims submitted.

For more information on filing a Claim Form, please call the toll-free telephone number at 1-xxx-xxx-xxxx or visit [www.xxxxxxxxxx.com](http://www.xxxxxxxxxx.com).

# CLAIM FORM

**Claims must be postmarked or submitted online by Month Day, 20YY.**

First Name:

[illegible]

MI:

Last Name:

[illegible]

Mailing Address:

[illegible]

City:

[illegible]

State:

|  |  |
|--|--|
|  |  |
|--|--|

ZIP Code:

|  |  |  |  |  |
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**Out-of-Pocket Losses:** You may submit a Claim Form with documentation for unreimbursed costs, expenses, and losses fairly traceable to the Data Incident for up to \$10,000 per Class Member. You must provide documentation showing you spent money or incurred losses related to the Data Incident. Visit the Settlement Website, [www.xxxxxxxxxx.com](http://www.xxxxxxxxxx.com), to submit a Claim Form, or download a paper Claim Form and submit by mail; **AND**

**Cash Payment:** Without providing documentation, you may submit a Claim Form to receive a pro rata (a legal term meaning equal share) cash payment; **AND**

☐ By checking this box, I affirm I want to receive a flat cash payment. If you want to receive your payment electronically (e.g. Venmo, or Zelle), you must submit a Claim Form on the Settlement Website, [www.xxxxxxxxxxxx.com](http://www.xxxxxxxxxxxx.com).

**Medical Monitoring:** You may also submit a Claim Form to receive two years of free Medical Monitoring.

☐ By checking this box, I affirm I want to receive two years of Medical Monitoring.

**By signing my name, I swear and affirm I am completing this Claim Form to the best of my personal knowledge.**

**Signature:**

\_\_\_\_\_

Date:

\_\_\_\_\_



**BARCODE  
NO-PRINT  
ZONE**

PLACE  
STAMP  
HERE

MNGI Data Incident Litigation  
Settlement Administrator  
PO Box XXXX  
Portland, OR 97xxx-xxxx

# EXHIBIT E

To: <<Class Member Email>>

From: Settlement Administrator <xxxx@XXXXXXX.com>

Subject: MNGI Court Ordered Notice of Class Action Settlement

Unique ID: <<UniqueID>> <<PIN>>

**You may be entitled to benefits from a Settlement due to the potential compromise of your Private Information in the Data Incident involving MNGI Digestive Health, P.A. in August 2023.**

*A court authorized this notice. This is not a solicitation from a lawyer.*

You can file your Claim Form [here](#).

**What is this Notice About?** A \$2,838,749.62 settlement has been reached in a class action lawsuit against MNGI Digestive Health, P.A. (“Defendant”) involving a Data Incident experienced on or around August 20, 2023, that involved an unauthorized third-party accessing Defendant’s network and computer systems and potentially accessing the Private Information of Class Members. The Private Information involved potentially included full names, dates of birth, passport numbers, drivers’ license or state identification numbers, medical information, health insurance information, payment card information, account numbers, and Social Security numbers.

The purpose of this Notice is to provide information about this Settlement and explain your rights and options.

**Who is Included? Records show you are a Class Member**, defined as: all individuals to whom Defendant sent notice of the security breach incident that Defendant experienced on or about August 20, 2023. 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 (including any members of the Court’s staff assigned to this case); (iii) Defendant’s officers and directors, and (iv) 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.

**What Does the Settlement Provide?** As a Class Member, you can submit a Claim Form [here](#) or by mail postmarked by **Month XX, 20YY**, for the following Settlement benefits:

- **Out-of-Pocket Losses:** You may submit a Claim Form with documentation for unreimbursed costs, expenses, and losses fairly traceable to the Data Incident for up to \$10,000 per Class Member; **AND**
- **Cash Payment:** Without providing documentation, you may submit a Claim Form to receive a pro rata (a legal term meaning equal share) cash payment; **AND**
- **Medical Monitoring:** You may also submit a Claim Form to receive two years of free Medical Monitoring.

Your Out-of-Pocket Losses cash payment may be subject to a pro rata decrease and your Cash Payment may be subject to a pro rata adjustment depending upon the total value of the Valid Claims submitted. More information is available [here](#) in the Settlement Agreement or the Long Form Notice.

**Other Options.** If you do not want to be legally bound by the Settlement, you must submit an opt-out **postmarked** by **Month XX, 20YY**. If you do not opt out, you will give up the right to sue and will release the Defendant and Released Persons about the legal claims in this lawsuit. If you do not opt out, you may object to the Settlement Agreement by **Month XX, 20YY**. The [Long Form Notice](#) on the Settlement Website explains how to opt-out or object.

If you do nothing, you will get no Settlement benefits, and you will be bound by the Settlement and any judgments and orders. The Court will hold a Final Fairness Hearing on **Month XX, 20YY**, to consider whether to approve the Settlement, Class Counsel's attorneys' fees at or below 33.33% of the Settlement Fund, or approximately \$946,155, plus reasonable expenses, Service Awards of \$5,000 to each Class Representative, and any objections. You or your lawyer may appear at the hearing if you object, but you are not required to do so.

**This notice is a summary.** Learn more about the Settlement [here](#) or call toll free 1-XXX-XXX-XXXX.

MNGI Data Incident Litigation  
Settlement Administrator  
PO Box XXXX  
Portland, OR 972XX-XXXX

**BARCODE  
NO-PRINT  
ZONE**

FIRST-CLASS MAIL  
U.S. POSTAGE  
PAID  
Portland, OR  
PERMIT NO.xxxx

Court-Approved Legal Notice

**You may be entitled to benefits from a  
Settlement due to the potential  
compromise of your Private  
Information in the Data Incident  
involving MNGI Digestive Health, P.A.  
in August 2023.**

*A Court has authorized this notice.  
This is not a solicitation from a lawyer.*

www.XXXXXXXXXX.com  
1-XXX-XXX-XXXX

<<MAIL ID>>  
<<NAME 1>>  
<<NAME 2>>  
<<ADDRESS LINE 1>>  
<<ADDRESS LINE 2>>  
<<ADDRESS LINE 3>>  
<<ADDRESS LINE 4>>  
<<ADDRESS LINE 5>>  
<<CITY, STATE ZIP>>  
<<COUNTRY>>

A \$2,838,749.62 settlement has been reached in a class action lawsuit against MNGI Digestive Health, P.A. (“Defendant”) involving a Data Incident experienced on or around August 20, 2023, which involved an unauthorized third-party accessing Defendant’s network and computer systems and potentially accessing the Private Information of Class Members. The Private Information involved potentially included full names, dates of birth, passport numbers, drivers’ license or state identification numbers, medical information, health insurance information, payment card information, account numbers, and Social Security numbers.

**Who is Included? Records show you are a Class Member**, defined as: all individuals to whom Defendant sent notice of the security breach incident that Defendant experienced on or about August 20, 2023. 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 (including any members of the Court’s staff assigned to this case); (iii) Defendant’s officers and directors, and (iv) 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.

**What does the Settlement Provide?** As a Class Member, you can submit a Claim Form online or by mail postmarked by **Month XX, 20YY**, for the following Settlement benefits:

**Out-of-Pocket Losses:** You may submit a Claim Form with documentation for unreimbursed costs, expenses, and losses fairly traceable to the Data Incident for up to \$10,000 per Class Member; **AND**

**Cash Payment:** Without providing documentation, you may submit a Claim Form to receive a pro rata (a legal term meaning equal share) cash payment; **AND**

**Medical Monitoring:** You may also submit a Claim Form to receive two years of free Medical Monitoring. Your Out-of-Pocket Losses cash payment may be subject to a pro rata decrease and your Cash Payment may be subject to a pro rata adjustment depending upon the total value of the Valid Claims submitted.

**Other Options.** If you do not want to be legally bound by the Settlement, you must submit a request to exclude yourself from the settlement (opt out) **postmarked by Month XX, 20YY**. If you do not opt out, you will give up the right to sue and will release the Defendant and Released Persons about the legal claims in this lawsuit. If you do not opt out, you may object to the Settlement Agreement by **Month XX, 20YY**. The Long Form Notice on the Settlement Website explains how to opt-out or object. If you do nothing, you will get no Settlement benefits, and you will be bound by the Settlement and any of the Court’s judgments and orders. The Court will hold a Final Fairness Hearing on **Month XX, 20YY**, to consider whether to approve the Settlement, Class Counsel’s attorneys’ fees at or below 33.33% of the Settlement Fund, or approximately \$946,155, plus reasonable expenses, Service Awards of \$5,000 to each Class Representative, and any objections. You or your lawyer may appear at the hearing if you object, but you are not required to do so.

**This notice is a summary.** Learn more at [www.XXXXX.com](http://www.XXXXX.com), or by calling toll free 1-XXX-XXX-XXX.

# CLAIM FORM

**Claims must be postmarked or submitted online by Month Day, 20YY.**

First Name:

[illegible]

MI:

Last Name:

[illegible]

Mailing Address:

[illegible]

City:

[illegible]

State:

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ZIP Code:

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**Out-of-Pocket Losses:** You may submit a Claim Form with documentation for unreimbursed costs, expenses, and losses fairly traceable to the Data Incident for up to \$10,000 per Class Member. You must provide documentation showing you spent money or incurred losses related to the Data Incident. Visit the Settlement Website, [www.xxxxxxxxxx.com](http://www.xxxxxxxxxx.com), to submit a Claim Form, or download a paper Claim Form and submit by mail; **AND**

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☐ By checking this box, I affirm I want to receive a flat cash payment. If you want to receive your payment electronically (e.g. Venmo, or Zelle), you must submit a Claim Form on the Settlement Website, [www.xxxxxxxxxxxx.com](http://www.xxxxxxxxxxxx.com).

**Medical Monitoring:** You may also submit a Claim Form to receive two years of free Medical Monitoring.

☐ By checking this box, I affirm I want to receive two years of Medical Monitoring.

**By signing my name, I swear and affirm I am completing this Claim Form to the best of my personal knowledge.**

**Signature:**

\_\_\_\_\_

Date:

\_\_\_\_\_

**BARCODE  
NO-PRINT  
ZONE**

PLACE  
STAMP  
HERE

MNGI Data Incident Litigation  
Settlement Administrator  
PO Box XXXX  
Portland, OR 97xxx-xxxx