

**IN THE CIRCUIT COURT FOR THE TWELFTH JUDICIAL CIRCUIT IN AND FOR  
MANATEE COUNTY, FLORIDA**

BARBARA BALBO and KARL FORD, on  
behalf of themselves and all others similarly  
situated,

Plaintiffs,

v.

COASTAL ORTHOPEDICS & SPORTS  
MEDICINE OF SOUTHWEST FLORIDA,  
P.A.,

Defendant.

Case No.: 2024CA001078AX

**ORDER PRELIMINARILY APPROVING SETTLEMENT,  
CERTIFYING SETTLEMENT CLASS, AND  
DIRECTING NOTICE TO SETTLEMENT CLASS**

This matter came before the Court for hearing on Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement ("Motion"). Upon careful consideration of the Motion, arguments of counsel, and being otherwise advised in the premises, the Court finds and determines as follows:

Plaintiffs Barbara Balbo and Karl Ford brought their class action against Defendant Coastal Orthopedics & Sports Medicine of Southwest Florida, P.A. ("COSM"), in July of 2024 for damages allegedly suffered by Plaintiffs and the Class in connection with a cybersecurity incident ("Data Incident") at COSM.

The parties, through their counsel, have entered into a Settlement Agreement and Release following good faith, arm's-length negotiations. The parties have agreed to settle this action, pursuant to the terms of the Settlement Agreement, and subject to the approval and determination

of the Court as to the fairness, reasonableness, and adequacy of the settlement which, if approved, will result in dismissal of this action with prejudice.

Having reviewed the Settlement Agreement and Release, (together, the “Settlement Agreement” or “Settlement”), and all prior proceedings herein, and for good cause shown, it is hereby ordered that Plaintiffs’ Motion for Preliminary Approval is granted as set forth herein.<sup>1</sup>

#### **I. CLASS CERTIFICATION FOR SETTLEMENT PURPOSES ONLY**

For settlement purposes only and pursuant to Florida Rules of Civil Procedure 1.220(a), the Court provisionally certifies a class in this matter defined as follows:

[A]ll individuals residing in the United States whose Private Information may have been accessed and/or acquired by an unauthorized party as a result of the Data Incident experienced by Defendant in June 2023.

Excluded from the Settlement Class are: (1) the Judge presiding over this Litigation, and members of his direct family; (2) the Defendant and its current or former officers and directors; and (3) Settlement Class Members who submit a valid Request for Exclusion prior to the Opt-Out Deadline.

The Court provisionally finds, for settlement purposes only, that: (a) the Settlement Class is so numerous that joinder of all Settlement Class Members would be impracticable; (b) there are issues of law and fact common to the Settlement Class; (c) the claims of the Class Representative are typical of and arise from the same operative facts and seek similar relief as the claims of the Settlement Class Members; (d) the Class Representative and Class Counsel will fairly and adequately protect the interests of the Settlement Class as the Class Representative has no interest antagonistic to or in conflict with the Settlement Class and has retained experienced and competent

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<sup>1</sup> Unless otherwise indicated, capitalized terms used herein have the same meaning as defined in the Settlement Agreement and Release, which was filed with Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement.

counsel to prosecute this matter on behalf of the Settlement Class; (e) questions of law or fact common to Settlement Class Members predominate over any questions affecting only individual members; and (f) a class action and class settlement is superior to other methods available for a fair and efficient resolution of this case.

The Court recognizes that COSM has agreed solely for purpose of the Settlement, and the implementation of such Settlement, that this case shall proceed as a class action. However, if a Final Approval Order is not issued by this Court, then any certification of the Class shall be null and void and, for the avoidance of doubt, COSM shall retain all rights to object to any future requests to certify a class. Plaintiff and Class Counsel shall not reference this Order or the Agreement in support of any subsequent motion for class certification of any class in this Action.

## **II. CLASS REPRESENTATIVES AND CLASS COUNSEL**

Karl Ford, Barbara Balbo and Vikki Comarsh-White are hereby provisionally designated and appointed as the Class Representatives. The Court provisionally finds that the Class Representatives are similarly situated to absent Settlement Class Members, and is therefore typical of the Class, and that they will be adequate as Class Representatives.

The Court finds that Mariya Weekes of Milberg Coleman Bryson Phillips Grossman, PLLC, is experienced and adequate counsel and is provisionally designated as Class Counsel.

## **III. PRELIMINARY SETTLEMENT APPROVAL**

Upon preliminary review, the Court finds that the Proposed Settlement is fair, reasonable, and adequate to warrant providing notice of the Settlement to the Settlement Class and accordingly is preliminarily approved.

## **IV. JURISDICTION**

The Court finds that it has subject matter jurisdiction and personal jurisdiction over the Parties. Additionally, venue is proper in this Court.

## **V. FINAL APPROVAL HEARING**

A Final Approval Hearing shall be held on July 28, 2025 at 10:45 a.m. via Zoom at to determine, among other things, whether: (i) this matter should be finally certified as a class action for settlement purposes pursuant to Florida Rule of Civil Procedure 1.220(d)(1), (2) and (3); (ii) the Settlement should be finally approved as fair, reasonable, and adequate pursuant to Florida Rule of Civil Procedure 1.220(e); (iii) the action should be dismissed with prejudice pursuant to the terms of the Settlement Agreement; (iv) Settlement Class Members should be bound by the releases set forth in the Settlement Agreement; (v) the application of Class Counsel for an award of attorneys' fees, costs and expenses (the "Fee Request") should be approved; and (vi) the application of the Class Representatives for a Service Award (the "Service Award Request") should be approved.

Plaintiffs' motion for final approval of the Settlement shall be filed with the Court no later than 14 days prior to Final Approval Hearing. Plaintiff's Service Awards Request and Fee Request shall be filed with the Court no later than 14 days prior to the Objection Deadline and Opt-Out Deadline. By no later than 7 days prior to the Final Approval Hearing, the parties shall file responses, if any, to any objections, and any replies in support of final approval of the Settlement and/or the Service Award Request and Fee Request.

## **VI. ADMINISTRATION**

The Court appoints **Kroll Settlement Administration** as the Settlement Administrator, with responsibility for class notice and claims administration. All Settlement Administration Costs will be paid out of the Settlement Fund.

## **VII. NOTICE TO THE CLASS**

The Proposed Notice Plan set forth in the Settlement Agreement, including the Short Form Notice and Long Form Notice, satisfies the requirements of Florida Rule of Civil Procedure 1.220(d)(2), provides the best notice practicable under the circumstances, and is hereby approved. Non-material modifications to these Exhibits may be made without further order of the Court. The Settlement Administrator is directed to carry out the Notice Plan in conformance with the Settlement Agreement.

## **VIII. FINDINGS CONCERNING NOTICE**

The Court finds that the form, content, and method of giving notice to the Settlement Class as described in Section VII of this Order and the Settlement Agreement (including the exhibits thereto): (a) will constitute the best practicable notice to the Settlement Class; (b) are reasonably calculated to apprise Settlement Class Members of the pendency of the action, the terms of the proposed settlement, including but not limited to their rights to object to or exclude themselves from the proposed settlement and other rights under the terms of the Settlement Agreement; (c) are reasonable and constitute due, adequate, and sufficient notice to all Class Members and other persons entitled to receive notice; and (d) meet all applicable requirements of law, including the Florida Rules of Civil Procedure 1.220(d)(2) and (3), and the Due Process Clause(s) of the Florida Constitution.

The Court further finds that the Notice is written in plain language, uses simple terminology, and is designed to be readily understandable by Class Members.

## **IX. EXCLUSION FROM CLASS**

Any Settlement Class Member in the Settlement Class may opt-out of the Settlement Class by mailing a request to opt-out to the Settlement Administrator postmarked no later than the last

day of the Opt-Out Deadline which will be sixty (60) days after the Notice Date. The opt-out request must be personally signed by the Settlement Class member and include the individual's full name, current address, personal signature, and the words "Request for Exclusion" or a comparable statement that the individual does not wish to participate in the Settlement in the communication.. The Claims Administrator shall provide the Parties with copies of all completed opt-out notifications, and a final list of all who have timely and validly excluded themselves from the Settlement Class. Any Settlement Class Member who does not timely and validly exclude herself or himself from the Settlement shall be bound by the terms of the Settlement. If Final Judgment is entered, any Settlement Class Member who has not submitted a timely, valid written notice of exclusion from the Settlement Class shall be bound by all proceedings, orders, and judgments in this matter, including but not limited to the Release and the dismissal with prejudice set forth in the Final Judgment, including Settlement Class Members who have previously initiated or who subsequently initiate any litigation against any or all of the Released Parties relating to the claims and transactions released in the Settlement Agreement. All Class Members who submit valid and timely notices of exclusion from the Settlement Class shall not be entitled to receive any benefits of the Settlement.

#### **X. OBJECTIONS AND APPEARANCES**

A Settlement Class Member who complies with the requirements of this paragraph may object to the Settlement, the Service Award Request, or the Fee Request, and must do so no later than sixty (60) days after the Notice Date.

No Settlement Class Member shall be heard, and no papers, briefs, pleadings, or other documents submitted by any Settlement Class Member shall be received and considered by the Court, unless the objection is filed with the Court and served on Counsel for the Parties by the

Objection Deadline, as specified in the Notice. For an objection to be considered by the Court, the objection must also state: (i) the name of the proceedings; (ii) the Settlement Class Member's full name, current mailing address, and telephone number; (iii) a statement of the specific grounds for the objection, as well as any documents supporting the objection; (iv) the identity of any attorneys representing the objector; (v) a statement regarding whether the Settlement Class Member (or his/her attorney) intends to appear at the Final Approval Hearing; (vi) a statement identifying all class action settlements objected to by the Settlement Class Member in the previous five years; and (vii) the signature of the Settlement Class Member or the Settlement Class Member's attorney..

Any Settlement Class Member who fails to substantially comply with the provisions of the two preceding paragraphs waive and forfeit any and all rights he or she may have to object, and shall be bound by all the terms of the Settlement Agreement, this Order, and by all proceedings, orders, and judgments in this matter, including, but not limited to, the Release in the Settlement Agreement if Final Judgment is entered. The Court retains the right to allow objections in the interest of justice.

Any Settlement Class Member, including a Settlement Class Member who has not opted-out and files and serves a written objection, as described above, may appear at the Final Approval Hearing, either in person or through counsel hired at the Settlement Class Member's expense, to object to or comment on the fairness, reasonableness, or adequacy of the Settlement, the Service Award Request, or the Fee Request.

If Final Judgment is entered, any Settlement Class Member who fails to object in the manner prescribed herein shall be deemed to have waived his or her objections and shall be forever barred from making any such objections in this action or in any other proceeding or from challenging or opposing, or seeking to reverse, vacate, or modify any approval of the Settlement

Agreement, including any final judgment and orders entered thereon, the Service Award Request, or the Fee Request.

#### **XI. CLAIMS PROCESS AND DISTRIBUTION AND ALLOCATION PLAN**

The Class Representatives and Defendant have created a process for assessing and determining the validity and value of claims and a payment methodology to Settlement Class Members who submit a timely, valid claim form. The Court preliminarily approves the settlement benefits to the class and plan for remuneration described in the Settlement Agreement and directs that the Claims Administrator effectuate the distribution of settlement consideration according to the terms of the Settlement Agreement, should Settlement be finally approved.

If Final Judgment is entered, all Settlement Class Members who qualify for a benefit under the Settlement but fail to submit a claim in accordance with the requirements and procedures specified in the Notice will be forever barred from receiving any such benefit, but will in all other respects be subject to and bound by the provisions in the Settlement Agreement, the Release included in the Settlement Agreement, and the Final Judgment.

#### **XII. TERMINATION OF THE SETTLEMENT**

This Order shall become null and void and shall be without prejudice to the rights of the Parties, all of whom shall be restored to their respective positions existing immediately before this Court entered this Order, if the Settlement is not finally approved by the Court or is terminated in accordance with the Settlement Agreement. In such event, the Settlement and Settlement Agreement shall become null and void and be of no further force and effect, and neither the Settlement Agreement nor the Court's orders, including this Order, relating to the Settlement shall be used or referred to for any purpose whatsoever.

#### **XIII. USE OF ORDER**



This Order shall be of no continuing force or effect if Final Judgment is not entered or there is no Effective Date (as defined in the Settlement Agreement). In no event, shall this Order be construed, regarded, or used as an admission, concession, or declaration by or against Defendant of any fault, wrongdoing, breach, or liability in connection with the Data Incident, indication that there was any misuse of information resulting from the Data Incident, that Plaintiffs have any standing to pursue their claims in this action, or the certifiability of any class. Nor shall this Order be construed or used as an admission, concession, or declaration by or against the Class Representatives or any other Settlement Class member that his or her claims lack merit or that the relief requested is inappropriate, improper, unavailable, or as a waiver by any Party of any defense or claims he, she, or it may have in this litigation or in any other lawsuit.

#### **XIV. STAY OF PROCEEDINGS**

Except as necessary to effectuate this Order, all proceedings and deadlines in this matter are stayed and suspended pending the Final Approval Hearing and issuance of the Final Judgment, or until further order of this Court.

#### **XV. CONTINUANCE OF HEARING**

The Court reserves the right to adjourn or continue the Final Approval Hearing and related deadlines without further written notice to the Class. If the Court alters any of those dates or times, the revised dates and times shall be posted on the website maintained by the Claims Administrator. No further notice of any revised dates or times need be provided to Settlement Class Members.

#### **XVI. SUMMARY OF DEADLINES**

The preliminarily approved Settlement shall be administered according to its terms pending the Final Approval Hearing. Deadlines arising under the Settlement Agreement and this Order include but are not limited to:

1. **Motion for Final Approval: 14 days prior to Final Approval Hearing**
2. **Motion for Service Award, Attorneys' Fees, Costs, and Expenses: 14 days prior to the Objection and Opt-Out Deadline.**
3. **Opt-Out and Objection Deadlines: 60 Days after Notice Date.**
4. **Claims Deadline: 90 Days after Notice Date.**
5. **Replies (if any) in Support of Final Approval, Service Awards, and Fee Requests: 7 days prior to Final Approval Hearing**
6. **Final Approval Hearing: (at least 90 days after Preliminary Approval): July 28, 2025, at 10:45 a.m. via Zoom.**

The dates set in this Order should be included as appropriate in the Notices to the Class.

IT IS SO ORDERED this the 28<sup>th</sup> day of March, 2025.



EDWARD NICHOLAS  
Circuit Court Judge