

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ERIE**

J.C.,

*Plaintiff,*

v.

CATHOLIC HEALTH SYSTEM,

*Defendant.*

Case No. 811968/2025

**CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE**

This Class Action Settlement Agreement and Release (“Agreement” or “Settlement Agreement”) is entered into by and among: (i) Plaintiff J.C. (“Plaintiff” or “Class Representative”); (ii) the Settlement Class (as defined herein); and (iii) Defendant Catholic Health System, Inc. (“CHS” or “Defendant”). The Settlement Class and Plaintiff are collectively referred to as the “Settlement Class” unless otherwise noted. The Plaintiff and the Defendant are collectively referred to herein as the “Parties.” This Agreement is intended by the Parties to fully, finally, and forever resolve, discharge, and settle the Released Claims (as defined herein), upon and subject to the terms and conditions of this Agreement, and subject to the final approval of the Court.

**I. INTRODUCTION**

This putative class action was initially commenced with the filing of a Complaint (“Complaint” or “Plaintiff’s Complaint”) in the United States District Court for the Western District of New York by Plaintiff J.C. on August 8, 2023 (*J.C. v. Catholic Health System, Inc.*, Case No. 1:23-cv-00796 (JLS) (JJM) (the “Federal Action”). The material allegations of the Complaint centered on Defendant’s alleged disclosure of its patients’ personally identifiable information to Meta, formerly known as Facebook, and other third parties without permission, in

violation of state and federal statutes.

On October 10, 2023, Defendant filed its Motion to Dismiss Plaintiff's Complaint in its entirety. Plaintiff opposed the motion on December 21, 2023, and Defendant served its reply on January 3, 2024. After submissions of supplemental authority by both Parties, oral argument, and additional briefing regarding whether the Court must decline to exercise supplemental jurisdiction over Plaintiff's state law claims if her claims were dismissed pursuant to Electronic Communications Privacy Act ("ECPA"), 18 U.S.C. § 2511, et seq., Magistrate Judge Jeremiah McCarthy issued a Report and Recommendation dated August 29, 2024. By Decision and Order dated January 31, 2025, the Court adopted Judge McCarthy's Report and Recommendation and partially granted and partially denied Defendant's requested relief, denying Defendant's motion to dismiss as to standing, granting Defendant's motion to dismiss for failure to state an ECPA claim, granting Plaintiff leave to amend her ECPA claim, and declining to exercise supplemental jurisdiction over Plaintiff's state-law claims. On February 14, 2024, Plaintiff filed her Amended Complaint in the Federal Action.

## **II. MEDIATION AND SETTLEMENT DISCUSSIONS**

The Parties engaged in settlement discussions and accordingly jointly requested extensions of Defendant's deadline to respond to the Amended Complaint on February 27 and April 22, 2024. The Parties agreed to participate in a private mediation with Hon. Frank Maas (Ret.) of JAMS, a well-respected class action mediator.

As part of the mediation, and in order to competently assess their relative negotiating positions, the Parties exchanged informal discovery and mediation briefing, including issues like the size and scope of the putative class and facts related to the strength of Defendant's defenses. Given that the information exchanged was similar to the information that would have been

provided in formal discovery and related to the issues of class certification and summary judgment, the Parties had sufficient information to assess the strengths and weaknesses of the claims and defenses and have had a full opportunity to examine the facts and circumstances surrounding their respective decisions to accept the terms of this Agreement and have not relied on any representations (or lack thereof) made by any other Party concerning the facts and circumstances leading to this Agreement;

The Parties engaged in an in-person mediation on April 29, 2025, in New York, New York with retired United States Magistrate Judge Frank Maas, during which the Parties engaged in good faith negotiations that resulted in their reaching agreement on all material terms of a class action settlement. Thereafter, Judge Maas compiled the terms and obtained the Parties' formal consent.

At all times, Defendant has denied and has continued to deny any wrongdoing whatsoever and has denied and continues to deny that it committed, threatened, or attempted to commit, any wrongful act or violation of law or duty alleged in the Action and believes it would have prevailed on its motion to dismiss, summary judgment, and trial. Nonetheless, considering the uncertainty and risks inherent in any litigation, Defendant has concluded it is desirable and beneficial that the Action be fully and finally settled and terminated in the manner and upon the terms and conditions set forth in this Agreement. This Agreement is a compromise, and the Agreement, any related documents, and any negotiations resulting in it shall not be construed as or deemed to be evidence of or an admission or concession of liability or wrongdoing on the part of Defendant, or any of the Released Parties (defined below), with respect to any claim of any fault or liability or wrongdoing or damage whatsoever.

Plaintiff believes that the claims asserted in the Action against Defendant have merit and that she would have prevailed at a motion to dismiss, class certification, summary judgment, and

trial. Nonetheless, Plaintiff and Class Counsel recognize that Defendant has raised factual and legal defenses that present a risk that Plaintiff may not prevail. Plaintiff and Class Counsel also recognize the expense and delay associated with continued prosecution of the Action against Defendant through a renewed motion to dismiss, class certification, summary judgment, trial, and any subsequent appeals. Plaintiff and Class Counsel have also considered the uncertain outcome and risks of litigation, especially in complex class actions, as well as the difficulties inherent in such litigation. Therefore, Plaintiff believes it is desirable that the Released Claims be fully and finally compromised, settled, and resolved with prejudice. Based on their evaluation, Class Counsel have concluded that the terms and conditions of this Agreement are fair, reasonable, and adequate to the Settlement Class, and that it is in the best interests of the Settlement Class to settle the claims raised in the Action pursuant to the terms and provisions of this Agreement.

### **III. SETTLEMENT TERMS AND DEFINITIONS**

1. NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among Plaintiff individually and as Class Representative, the Settlement Class, and each of them, and Defendant, by and through their undersigned counsel, that, subject to final approval of the Court after a hearing or hearings as provided for in this Settlement Agreement or as may be required by the Court, and any appellate review, in consideration of the benefits, covenants, agreements, and releases set forth herein and for other good and valuable consideration, the adequacy of which is hereby acknowledged, flowing to the Parties from the Agreement set forth herein, that the Action and the Released Claims shall be finally and fully compromised, settled, and released, and the Action shall be dismissed on the merits with prejudice, upon and subject to the terms and conditions of this Agreement.

#### **DEFINITIONS**

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

1.1. **“Action”** means *J.C. v. Catholic Health System, Inc.*, No. 1:23-cv-00796-JLS, pending in the United States District Court for the Western District of New York, and the case that was filed by the Class Representative in the Supreme Court of the State of New York, County of Erie, asserting the same or similar claims: *J.C. v. Catholic Health System, Inc.*, 811968/2025, pending in the State Supreme Court of the State of New York, Erie County.

1.2. **“Agreement”** or **“Settlement Agreement”** means this Settlement Agreement and Release and each and every exhibit attached hereto, which are hereby incorporated by reference.

1.3. **“Approved Claim”** means a Claim Form submitted by a Settlement Class Member that: (a) is submitted timely and in accordance with the directions on the Claim Form and the terms of this Agreement; (b) is fully and truthfully completed by a Settlement Class Member with all of the information requested in the Claim Form; (c) is signed by the Settlement Class Member, physically or electronically; and (d) is approved by the Settlement Administrator pursuant to the provisions of this Agreement.

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

1.5. **“Claim Form”** means the document substantially in the form attached hereto as Exhibit A, as approved by the Court. The Claim Form, to be completed by Settlement Class Members who wish to file a Claim for a payment, shall be provided in either electronic or paper format in the manner described below.

1.6. **“Claims Deadline”** means the date by which all Claim Forms must be postmarked or received to be considered timely and shall be set ninety (90) days after the Notice Date. The

Claims Deadline shall be clearly set forth in the Preliminary Approval Order as well as in the Notice and the Claim Form.

1.7. **“Class Counsel”** means Philip J. Krzeski of Chestnut Cambronne PA; Gary M. Klinger of Milberg Coleman Bryson Phillips Grossman, PLLC; Joseph M. Lyon of The Lyon Firm; and Dylan Gould of Markovits, Stock & DeMarco, LLC.

1.8. **“Class Representative” or “Plaintiff”** means the named Plaintiff in the Action, J.C.

1.9. **“Court”** means the Supreme Court of the State of New York, County of Erie, and the Judge presiding over *J.C. v. Catholic Health System, Inc.*, 811968/2025, pending in Supreme Court of the State of New York, County of Erie, or any future court and judge where this Action may be transferred.

1.10. **“Defendant”** means Catholic Health System, Inc.

1.11. **“Defendant’s Counsel”** means Anna Mercado Clark, Lisa L. Smith, and William P. Keefer of Phillips Lytle LLP.

1.12. **“Effective Date”** means the date on which the Agreement becomes final, which shall be one (1) business day following the latest of: (i) entry of the Preliminary Approval Order; (ii) entry of the Class Notice Approval Order; (iii) the deadline for Settlement Class Members to request exclusion from the settlement has passed; (iv) entry of the Final Judgment and Order of Dismissal in the Action, following dissemination of Class Notice and the Final Fairness Hearing; (v) the deadline for filing or noticing any appeal of the Court’s Final Judgment approving the Settlement Agreement; (vi) if there is an appeal or appeals, other than an appeal or appeals solely with respect to the Fee Award, the date of completion, in a manner that finally affirms and leaves in place the Final Judgment without any material modification, of all proceedings arising out of

the appeal or appeals (including, but not limited to, the expiration of all deadlines for motions for reconsideration or petitions for review and/or certiorari, all proceedings ordered on remand, and all proceedings arising out of any subsequent appeal or appeals following decisions on remand); or (vii) the date of final dismissal of any appeal or the final dismissal of any proceeding on certiorari.

1.13. **“Escrow Account”** shall mean a segregated, interest-bearing account to be established by the Settlement Administrator, from which the Settlement Administrator will pay Settlement Benefits to Settlement Class Members who submit Approved Claims. Defendant shall provide funds to the Settlement Administrator to pay Approved Claims, attorneys’ fees, costs, and service awards as approved by the Court.

1.14. **“Federal Action”** means *J.C. v. Catholic Health System, Inc.*, No. 1:23-cv-00796-JLS, pending in the United States District Court for the Western District of New York.

1.15. **“Fee Award”** means the amount of attorneys’ fees and reimbursement of expenses awarded by the Court to Class Counsel, which will be paid by Defendant. The Fee Award also includes expert fees, or any other fees or costs incurred by Class Counsel in the pursuit of the Action and all other related actions that were or could have been asserted in the Action. Class Counsel shall not be able to recover any such fees or costs except as part of the Fee Award, as authorized by the Court.

1.16. **“Final Approval Hearing”** means the hearing before the Court where the Parties will request the Final Judgment to be entered by the Court approving the Settlement Agreement, the Fee Award, and the Service Award to the Class Representative.

1.17. **“Final Judgment” or “Final Approval Order”** means the Final Judgment and Order to be entered by the Court approving the Agreement after the Final Approval Hearing attached as Exhibit G.

1.18. **“Notice”** means the notice of this proposed Class Action Settlement Agreement and Final Approval Hearing, which is to be sent to the Settlement Class substantially in the manner set forth in this Agreement, or as modified by the Court in its order granting preliminary approval, if reasonably agreeable to the Parties, is consistent with the requirements of Due Process, and is substantially in the form of Exhibits B and C hereto.

1.19. **“Notice Date”** means the date by which the initial Direct Notice set forth in Section 4.1 is complete, which shall be no later than thirty (30) days after Preliminary Approval.

1.20. **“Objection Deadline”** means the date by which a written objection to this Settlement Agreement must be made, which will be sixty (60) days after Preliminary Approval (which is also 30 days after the Notice Date).

1.21. **“Opt-Out Deadline” or “Exclusion Deadline”** is the last day on which a Settlement Class Member may file a written request to be excluded from the Settlement Class, which will be sixty (60) days after Preliminary Approval (which is also 30 days after the Notice Date), or such other date as ordered by the Court.

1.22. **“Person”** shall mean, without limitation, any individual, corporation, partnership, limited partnership, limited liability company, 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 spouses, heirs, predecessors, successors, representatives, or assigns. “Person” is not intended to include any governmental agencies or governmental actors, including, without limitation, any state Attorney General office.



1.23. **“Preliminary Approval”** means the Court’s certification of the Settlement Class for settlement purposes, preliminary approval of this Settlement Agreement, and approval of the form and manner of the Notice.

1.24. **“Preliminary Approval Order”** means the order preliminarily approving the Settlement Agreement, certifying the Settlement Class for settlement purposes, and directing notice thereof to the Settlement Class, which will be agreed upon by the Parties and submitted to the Court in conjunction with Plaintiff’s motion for preliminary approval of the Agreement. A proposed Order granting preliminary approval is attached as Exhibit F

1.25. **“Privacy Monitoring”** means subscription to Dashlane Premium Plan, which is valued at \$96 per subscription year. This program monitors the dark web for subscribers’ personal information, provides a virtual private network (“VPN”) to encrypt subscribers’ data and mask their IP addresses, allows subscribers to use a private search engine that does not store personally identifiable information, automatically requests that data brokers remove subscribers’ personal information, and manages subscribers’ passwords across multiple devices, and allows consumers to store documents and records within an encrypted digital vault.

1.26. **“Released Claims”** means any and all actual, potential, filed, known or unknown, fixed or contingent, claimed or unclaimed, suspected or unsuspected, claims, demands, liabilities, rights, causes of action, contract or agreements, extra contractual claims, damages, punitive, exemplary or multiplied damages, expenses, costs, attorneys’ fees, and/or obligations (including “Unknown Claims” as defined below), whether in law or in equity, accrued or unaccrued, direct, individual or representative, of every nature and description whatsoever, whether based on state, federal, local, statutory, or common law or any other law, rule or regulation, against Released Parties, or any of them, arising out of any facts, transactions, events, matters, occurrences, acts,

disclosures, statements, representations, omissions or failures to act regarding the alleged collection, disclosure, use, transmission, interception or transfer of information of or related to the Settlement Class Members through use of the Meta and/or Google pixel or other tracking, analytic, marketing, or advertising technologies, including without limitation all claims that were brought or could have been brought in the Action by or on behalf of any and all Releasing Parties relating to, concerning, or arising out of the Defendant's use of the Meta and/or Google pixel or any other tracking, analytics, marketing, or advertising technologies, or the allegations, facts, or circumstances described in the Action. Nothing herein is intended to release any claims any governmental agency or governmental actor has against Defendant.

1.27. **“Released Parties”** means Catholic Health System, Inc., as well as any and all of its respective present, past or future affiliates (including but not limited to the entities listed in Exhibit E), heirs, executors, estates, administrators, predecessors, successors, assigns, parent companies, subsidiaries, licensors, licensees, associates, affiliates, employers, employees, agents, consultants, independent contractors, insurers, reinsurers, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, underwriters, shareholders, lenders, auditors, investment advisors, legal representatives, successors in interest, assigns and companies, firms, trusts, and corporations, and the predecessors, successors, heirs, executors, administrators and assigns of any of the foregoing.

1.28. **“Releasing Parties”** means Plaintiff, those Settlement Class Members who do not timely opt out of the Settlement Class, and all of their respective present, past, or future heirs, executors, estates, administrators, predecessors, successors, assigns, insurers, partners, attorneys, accountants, financial and other advisors, legal representatives, and successors in interest. Each Releasing Party releases Released Claims on behalf of itself and on behalf of any party claiming

by, for, under or through the Releasing Party, with such claiming parties to include any and all of Releasing Party's past, present and future officers, directors, supervisors, employees, agents, stockholders, investors, members, attorneys, servants, representatives, accounts, plans, groups, parent companies, subsidiary companies, affiliated companies, divisions, affiliated partnerships, joint venturers, principals, partners, wards, heirs, assigns, beneficiaries, estates, next of kin, family members, relatives, personal representatives, administrators, agents, representatives of any kind, insurers, and all other persons, partnerships or corporations with whom any of the foregoing have been, are now or become affiliated, and the predecessors, successors, heirs, executors, administrators and assigns of any of the foregoing.

1.29. **"Remainder Funds"** means the funds remaining from Settlement Payments to valid claimants that are not successfully cashed or deposited within 180 days from payment. Remainder Funds shall be sent to one or more court-approved charitable organizations as a cy pres distribution. The Parties will jointly recommend the entity or entities to the Court that will be the recipients of the cy pres distribution.

1.30. **"Settlement Administration Expenses"** means the reasonable expenses incurred by the Settlement Administrator in providing Notice, processing claims, responding to inquiries from members of the Settlement Class, mailing checks for Approved Claims, and related services, the cost of which will not exceed what is listed in the contract with the Settlement Administrator. Expenses shall be paid by Defendant.

1.31. **"Settlement Administrator"** means Kroll Settlement Administration, LLC or such other reputable administration company that has been selected by the Parties and approved by the Court to oversee the distribution of Notice, as well as the processing and payment of Approved Claims to the Settlement Class as set forth in this Agreement.

1.32. **“Settlement Class”** is defined as follows:

*Settlement Subclass 1:* All current or former patients who logged into CHS’s MyChart patient portal from January 1, 2020 through the date of Preliminary Approval Order.

*Settlement Subclass 2:* All other former or current patients of CHS or individuals who sought and/or received treatment from CHS from January 1, 2020 through the date of Preliminary Approval Order.

Excluded from the Settlement Classes are: (a) Defendant’s officers and directors; and (b) the affiliates, legal representatives, attorneys, successors, heirs, and assigns of Defendant. Also excluded from the Settlement Classes are members of the judiciary to whom this case is assigned, their families and members of their staff.

1.33. **“Settlement Class Member”** means a Person who falls within the definition of the Settlement Class as set forth above and who has not submitted a valid request for exclusion. Defendant has identified approximately 300,000 Settlement Class Members, with approximately 85,000 belonging to Subclass 1 and approximately 215,000 belonging to Subclass 2.

1.34. **“Settlement Class List”** means the list of names, addresses, and/or email addresses of Settlement Class Members to be provided by Defendant to the Settlement Administrator.

1.35. **“Settlement Payment”** means the payment to be made by Defendant for each Approved Claim submitted by a Settlement Class Member. The Settlement Payment for each valid Claim of Settlement Subclass 1 members shall be \$20.00, subject to a 15% claims made cap. If the claims rate exceeds the cap, payments will be reduced and prorated, with the total Settlement Benefits at the 15% claims rate cap divided proportionally and equally, in an amount dependent on the number of Approved Claims submitted over the 15% cap. The Settlement Administrator shall track all Approved Claims and report to Defendant the total amount due for all Approved Claims. Defendant shall pay all Approved Claims directly to the Settlement Administrator for

distribution to Settlement Class Members who submitted Approved Claims, which payment shall be valid for one hundred and eighty (180) days.

1.36. **“Settlement Benefits”** means the benefits to be provided to Settlement Class Members who submit Approved Claims as described in Section 2 of this Agreement.

1.37. **“Settlement Website”** means a website, referenced in Section 4.1.5 below, to be established, operated, and maintained by the Settlement Administrator for purposes of providing Notice and otherwise making available to the Settlement Class Members the documents, information, and online claims submission process referenced herein.

1.38. **“Unknown Claims”** means any of the Released Claims that any of the Releasing Parties does not know or suspect to exist, which, if known by him or her, might have affected his or her settlement with and release of the Released Parties or the Released Claims or might have affected his or her decision to agree, object, or not to object to and/or participate in the settlement. Upon the Effective Date, Plaintiff expressly shall have, and all Releasing Parties shall be deemed to have, and by operation of the Judgment shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of § 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Upon the Effective Date, the Plaintiff expressly shall have, and all other Releasing Parties also shall be deemed to have, and by operation of the Judgment shall have, waived any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law, or the law of any jurisdiction outside of the United States, which is

similar, comparable, or equivalent to § 1542 of the California Civil Code. The Releasing Parties acknowledge that they may discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of this release, but that it is their intention to finally and forever settle and release the Released Claims, notwithstanding any Unknown Claims they may have, as that term is defined in this Section. The Settling Parties acknowledge, and the Releasing Parties 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.

## **2. SETTLEMENT RELIEF**

2.1. Claims-Made Settlement Structure. This is a claims-made settlement. Defendant agrees to pay for all Approved Claims submitted by Settlement Class Members, Settlement Administration Expenses, the Fee Award, and service award awarded to Plaintiff as approved by the Court.

2.2. Payments to Settlement Class Members. Each Settlement Class Member belonging to Settlement Subclass 1 will be provided the opportunity to submit a claim for a cash payment of up to \$20.00. At the election of the Settlement Class member, cash payments may be paid via electronic payment (including PayPal, Venmo, Zelle, or other electronic payment system) or by check.

2.3. Dashlane Premium Plan. Each Settlement Class Member belonging to Settlement Subclass 2 will be provided the opportunity to enroll in Privacy Monitoring for a period of twelve (12) months.

2.4. Equitable Relief. Defendant agrees to injunctive relief requiring it to remove from the CHSbuffalo.org and/or chcareondemand.org websites first-party tracking technologies, which

may include Meta Pixel or CAPI, and Google Analytics, if such tracking technologies are implemented and transmit website data to a third party with no HIPAA-compliant agreement with CHS.

2.5. Settlement Administration Process: Once a Settlement Administrator is mutually agreed to by the parties and after the settlement is preliminarily approved by the Court, the Settlement Administrator will provide notice to Settlement Class Members in a manner mutually agreed upon by the parties, including direct email notice for all Settlement Class Members for whom CHS has an email address. After the Court enters the Final Judgment, CHS will pay proceeds to the Settlement Administrator for all Approved Claims for cash payments, and shall provide instructions regarding how to enroll in Dashlane Premium Plan to Settlement Subclass 2 members that submitted an Approved Claim.

2.6. Release: The relief stated above will be provided to Settlement Class Members as consideration for a general release by Settlement Class Members as defined through the Settlement Class definition, in favor of the Released Parties, for all claims and causes of action pleaded or that could have been pleaded that are related in any way to any alleged privacy violations on any of the public websites of CHS or any of its affiliates, including but not limited to those entities set forth in Exhibit E. Class Counsel shall also seek a voluntary dismissal, without prejudice, of the litigation captioned *J.C. v. Catholic Health System, Inc.*, No. 1:23-cv-00796-JLS, pending in the United States District Court for the Western District of New York, pursuant to the terms of this settlement and in connection with preliminary and final approval of this settlement.

2.7. Covenant Not to Sue. Plaintiff J.C. and her counsel including Class Counsel respectively covenant and agree that they will not make, assert, or maintain any claim, litigation or cause of litigation against the Released Parties at any time related to any of the Released Claims.

2.8. Claims Period: The Parties agree that the period for filing claims will be set at a date certain at no more than 90 days from the date that notice is mailed to the Settlement Class, subject to the Court's approval.

2.9. No Admission: Nothing relating to this Agreement or the resulting Settlement Agreement shall be cited to as, construed to be, admissible as, or deemed an admission by CHS or the Released Parties of any liability, culpability, negligence, misconduct or other wrongdoing toward Plaintiff, the Settlement Class Members, or any other person, which liability, culpability, negligence, misconduct or other wrongdoing is expressly denied by Defendant.

2.10. Attorneys' Fees and Class Representative Service Awards: Defendant shall pay the Class Representative a service award of up to \$5,000 as approved by the Court in consideration of her efforts on behalf of the Settlement Class. In addition, Defendant shall pay the Fee Award approved by the Court not to exceed \$595,000.

### **3. RELEASE**

3.1. The obligations incurred pursuant to this Settlement Agreement shall be a full and final disposition of the Action and any and all Released Claims, as against all Released Parties. Upon the Effective Date and in consideration of the promises and covenants set forth in this Settlement Agreement, the Plaintiff and Settlement Class Members will be deemed to have fully, finally, and forever completely released, relinquished, and discharged the Released Parties from any and all actual, potential, filed, known or unknown, fixed or contingent, claimed or unclaimed, suspected or unsuspected, claims, demands, liabilities, rights, causes of action, disputes, contracts or agreements, extra contractual claims, damages, punitive, exemplary or multiplied damages, expenses, costs, attorneys' fees and or obligations, whether in law or in equity, accrued or unaccrued, direct, individual or representative, of every nature and description whatsoever,



whether arising out of, or connected to the Defendant's use of the Meta and/or Google pixel or any other tracking, analytics, marketing or advertising technologies on its websites that were or could have been asserted in the Action or otherwise pursuant to other state, federal, local, statutory or common law or any other law, rule or regulation, against the Released Parties, or any of them, arising out of any facts, transactions, events, matters, occurrences, acts, disclosures, statements, representations, omissions or failures to act regarding the alleged disclosure of the Settlement Class Members' personal health information or other information to any third party, including all claims that were brought or could have been brought in the Action relating to the disclosure of such information belonging to any and all Releasing Parties. Nothing herein is intended to release any claims any governmental agency or governmental actor has against Defendants (the "Release"). The Release shall be included as part of the Final Judgment so that all claims released thereby shall be barred by principles of res judicata, collateral estoppel, and claim and issue preclusion. The Released Claims shall constitute and may be asserted as a complete defense to any proceeding arising from, relating to, or filed in connection with the Released Claims.

#### **4. NOTICE TO THE CLASS, OBJECTIONS, AND OPT OUTS**

4.1. Class Notice and procedures governing dissemination of the Notice will be reasonably calculated to apprise Class Members of the pendency of the Action, this Agreement, and their opportunity to be heard and to opt out.

4.2. The Notice Plan shall consist of the following:

4.2.1. Settlement Class List. No later than fourteen (14) days after Preliminary Approval, Defendant shall produce to the Settlement Administrator an electronic list from their records that includes the names and email addresses, to the extent available, belonging to Persons within the Settlement Class. Class Counsel's assent to this Agreement shall

constitute consent on behalf of the Settlement Class to disclose this information. This electronic document shall be called the “Class List,” and shall be provided to the Settlement Administrator, who shall not use the Settlement Class List except as set forth in this Agreement. Class Counsel may not send advertisements, solicitations, or communications to the Settlement Class to solicit Class Members to retain Class Counsel for any other matters or dispute, or for any purpose not expressly authorized in this Agreement.

4.2.2. Direct Notice. In the event that the Court preliminarily approves the Settlement, no later than the Notice Date, the Settlement Administrator shall send Notice via email substantially in the form attached as Exhibit B along with an electronic link to the Claim Form to all Settlement Class Members for whom a valid email address is available in the Class List. In the event transmission of email notice results in any “bounce-backs,” the Settlement Administrator shall, where reasonable, correct any issues that may have caused the “bounce-back” to occur and make a second attempt to re-send the email notice.

4.2.3. Reminder Notice. Both thirty (30) days prior to the Claims Deadline and seven (7) days prior to the Claims Deadline, the Settlement Administrator shall send reminder Notice via email substantially in the form attached as Exhibit B (with minor, non-material modifications to indicate that it is a reminder email rather than an initial notice), along with an electronic link to the Claim Form, to all Settlement Class Members for whom a valid email address is available in the Class List and has not yet submitted a Claim.

4.2.4. Notice Method Where Email Address Is Not Available. As set forth above, Notice shall be provided by email to the greatest extent possible. To the extent that an

email address is not available for a Settlement Class Member, Notice shall be provided by USPS regular mail, a copy of the Postcard Notice is attached as **Exhibit C**

4.2.5. Settlement Website. Within thirty (30) days from the entry of the Preliminary Approval Order, Notice shall be provided on a website which shall be administered and maintained by the Settlement Administrator and shall include the ability to file Claim Forms online. The Settlement Website shall contain all forms of Notice attached hereto as Exhibits A, B, and C. The Parties shall jointly approve the Settlement Website URL.

4.2.6. Contact from Class Counsel. Class Counsel, in their capacity as counsel to Settlement Class Members, may periodically contact Settlement Class Members to provide information about the Settlement Agreement and to answer any questions Settlement Class Members may have about the Settlement Agreement.

4.3. The Notice shall advise the Settlement Class of their rights, including the right to be excluded from, comment upon, or object to the Settlement Agreement or any of its terms. The Notice shall specify that any objection to the Settlement Agreement, and any papers submitted in support of said objection, shall be considered by the Court at the Final Approval Hearing only if, on or before the Objection Deadline approved by the Court and specified in the Notice, the Person making the objection files notice of an intention to do so and at the same time (a) files copies of such papers he or she proposes to be submitted at the Final Approval Hearing with the Clerk of the Court, or alternatively, if the objection is from a Class Member represented by counsel, files any objection through the Court's electronic filing system, and (b) sends copies of such papers by mail, hand, or overnight delivery service to Class Counsel and Defendant's Counsel.

4.4. Any Settlement Class Member who intends to object to this Agreement must present the objection in writing, which must be personally signed by the objector, and postmarked by the Exclusion Deadline and must include: (1) the objector's name and address; (2) an explanation of the basis upon which the objector claims to be a Settlement Class Member; (3) all grounds for the objection, including all citations to legal authority and evidence supporting the objection; (4) the name and contact information of any and all attorneys representing, advising, or in any way assisting the objector in connection with the preparation or submission of the objection; and (5) a statement indicating whether the objector intends to appear at the Final Approval Hearing (either personally or through counsel who file an appearance with the Court in accordance with the Local Rules).

4.5. If a Settlement Class Member or any of the counsel has objected to any class action settlement where the objector or their counsel asked for or received any payment in exchange for dismissal of the objection, or any related appeal, without any modification to the settlement, then the objection must include a statement identifying each such case by full case caption and amount of payment received. Any challenge to the Settlement Agreement, the Final Order, or the Final Judgment shall be pursued by appeal under the applicable rules of appellate procedure and not through a collateral attack.

4.6. A Settlement Class Member may request to be excluded from the Settlement Class by sending a written request postmarked on or before the Exclusion Deadline approved by the Court and specified in the Notice. To exercise the right to be excluded, a Person in the Settlement Class must timely send a written request for exclusion to the Settlement Administrator as specified in the Notice, providing (i) his or her name and address, (ii) a signature, (iii) the name and number of the case, and (iv) a statement that he or she wishes to be excluded from the Settlement Class for

purposes of this Settlement. A request to be excluded that does not include all of this information, or that is sent to an address other than that designated in the Notice, or that is not postmarked within the time specified shall be invalid, and the Person(s) serving such a request shall be a member(s) of the Settlement Class and shall be bound as a Settlement Class Member by this Agreement, if approved. Any member of the Settlement Class who validly elects to be excluded from this Agreement shall not: (i) be bound by any orders or the Final Judgment; (ii) be entitled to relief under this Settlement Agreement; (iii) gain any rights by virtue of this Agreement; or (iv) be entitled to object to any aspect of this Agreement. The request for exclusion must be personally signed by the Person requesting exclusion. So-called “mass” or “class” opt-outs shall not be allowed. To be valid, a request for exclusion must be postmarked or received by the date specified in the Notice.

4.7. The Final Approval Hearing shall be no earlier than one hundred twenty (120) days after the Notice described in Section 4.1 is provided.

4.8. Any Settlement Class Member who does not, using the procedures set forth in this Agreement and the Notice, either seek exclusion from the Settlement Class or timely file a valid Claim Form shall not be entitled to receive any payment or benefits pursuant to this Agreement, but will otherwise be bound by all of the terms of this Agreement, including the terms of the Final Judgment to be entered in the Action and the Releases provided for in the Agreement, and will be barred from bringing any action against any of the Released Parties concerning the Released Claims.

4.9. No Person shall have any claim against the Settlement Administrator, the Released Parties, Plaintiff’s Counsel/Class Counsel, or the Class Representative based on distributions of benefits to Settlement Class Members.

4.10. The Released Parties shall not have any responsibility for or liability whatsoever with respect to (i) any act, omission, or determination of Class Counsel, the Settlement Administrator, or any of their respective designees or agents in connection with the administration of the Settlement; (ii) the management, investment or distribution of the payment of Approved Claims; (iii) the formulation design or terms of the disbursement of Approved Claims; or (iv) the payment or withholding of any taxes, expenses and or costs incurred in connection with the taxation of Settlement Payments or the filing of any returns. Defendant also shall have no obligation to communicate with Settlement Class Members and others regarding amounts paid under the settlement.

## **5. SETTLEMENT ADMINISTRATION**

5.1. The Settlement Administrator shall, under the supervision of the Court, administer the relief provided by this Settlement Agreement by processing Claim Forms in a rational, responsive, cost effective, and timely manner. The Settlement Administrator shall maintain reasonably detailed records of its activities under this Agreement. The Settlement Administrator shall maintain all such records as are required by applicable law in accordance with its normal business practices and such records will be made available to Class Counsel and Defendant's Counsel upon request. The Settlement Administrator shall also provide reports and other information to the Court as the Court may require. The Settlement Administrator shall provide Class Counsel and Defendant's Counsel with information concerning Notice, administration, and implementation of the Settlement Agreement. Should the Court request, the Parties shall submit a timely report to the Court summarizing the work performed by the Settlement Administrator, including a report of all amounts paid to Settlement Class Members on account of Approved Claims. Without limiting the foregoing, the Settlement Administrator shall:

5.2. Forward to Defendant's Counsel, with copies to Class Counsel, all original documents and other materials received in connection with the administration of the Settlement, and all copies thereof, within thirty (30) days after the date on which all Claim Forms have been finally approved or disallowed in accordance with the terms of this Agreement;

5.3. Receive requests to be excluded from the Settlement Class and other requests and promptly provide to Class Counsel and Defendant's Counsel copies thereof. If the Settlement Administrator receives any exclusion forms or other requests after the deadline for the submission of such forms and requests, the Settlement Administrator shall promptly provide copies thereof to Class Counsel and Defendant's Counsel;

5.4. Provide weekly reports to Class Counsel and Defendant's Counsel, including without limitation, reports regarding the number of Claim Forms received, the number approved by the Settlement Administrator, and the categorization and description of Claim Forms rejected, in whole or in part, by the Settlement Administrator; and

5.5. Make available for inspection by Class Counsel or Defendant's Counsel the Claim Forms received by the Settlement Administrator at any time upon reasonable notice.

5.6. The Settlement Administrator shall be obliged to employ reasonable procedures to screen claims for abuse or fraud and deny Claim Forms where there is evidence of abuse or fraud. The Settlement Administrator will reject any claim that does not comply in any material respect with the instructions on the Claim Form or the terms of this Agreement, or is submitted after the Claims Deadline. Each claimant who submits an invalid Claim Form to the Settlement Administrator must be given notice of the Claim Form's deficiency and an opportunity to cure the deficiency within twenty-one (21) days of the date of the notice. The Settlement Administrator

may contact any Person who has submitted a Claim Form to obtain additional information necessary to verify the Claim Form.

5.7. Defendant's Counsel and Class Counsel shall have the right to challenge the acceptance or rejection of a Claim Form submitted by Settlement Class Members and to obtain and review supporting documentation relating to such Claim Form. The Settlement Administrator shall follow any agreed decisions of Class Counsel and Defendant's Counsel as to the validity of any disputed submitted Claim Form. To the extent Class Counsel and Defendant's Counsel are not able to agree on the disposition of a challenge, the disputed claim shall be submitted to the Hon. Frank Maas (Ret.), or if unavailable, a JAMS (Judicial Arbitration and Mediation Services), Inc. neutral that is mutually acceptable to the Parties, for binding determination.

5.8. In the exercise of its duties outlined in this Agreement, the Settlement Administrator shall have the right to reasonably request additional information from the Parties or any Settlement Class Member.

5.9. For any claim payment returned to the Settlement Administrator as undeliverable, including but not limited to, when the intended recipient is no longer located at the address, the Settlement Administrator shall make reasonable efforts to find a valid address and resend the claim payment within thirty (30) days after the payment is returned to the Settlement Administrator as undeliverable. The Settlement Administrator shall only make one attempt to resend a claim payment.

5.10. In the event a third party, such as a bankruptcy trustee, former spouse, or other third party has, or claims to have, a claim against any payment made to a Settlement Class Member, it is the responsibility of the Settlement Class Member to transmit the funds to such third party.



Unless otherwise ordered by the Court, the parties will have no, and do not agree to any, responsibility for such transmittal.

## **6. TERMINATION OF SETTLEMENT**

6.1. Subject to Sections 9.1-9.3 below, Defendant or Class Representative on behalf of the Settlement Class, shall have the right to terminate this Agreement by providing written notice of the election to do so (“Termination Notice”) to all other Parties hereto within twenty-one (21) days of any of the following events: (i) the Court’s refusal to grant Preliminary Approval of this Agreement in any material respect; (ii) the Court’s refusal to grant final approval of this Agreement in any material respect; (iii) the Court’s refusal to enter the Final Judgment in this Action in any material respect; (iv) the date upon which the Final Judgment is modified or reversed in any material respect by the Appellate Division or the Court of Appeals, or any appellate court.

6.2. Subject to Sections 9.1-9.3 below, Defendant shall have the right, but not the obligation, in its sole discretion, to terminate this Agreement by providing written notice to Class Counsel within seven (7) days if more than 15% of the total Settlement Class Members exercise their right to be excluded from the Settlement.

6.3. If Defendant seeks to terminate the Agreement on the basis of Section 6.2 above, the Parties agree that any dispute as to whether Defendant may invoke Section 6.2 to terminate the Agreement that they cannot resolve on their own after reasonable, good faith efforts, will be submitted to the Hon. Frank Maas (Ret.) for binding determination.

6.4. The Parties agree that the Court’s failure to approve, in whole or in part, the Fee Award or the Service Award set forth in Section 8 below shall not prevent the Agreement from becoming effective, nor shall it be grounds for termination. The procedures for any application for

approval of attorneys' fees, expenses, or service award are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness and adequacy of the Settlement.

6.5. If the Agreement is terminated pursuant Sections 2, 6, or 9 of this Agreement, Defendant shall still be responsible for the payment of reasonable Settlement Administration Expenses that have been incurred.

## **7. PRELIMINARY APPROVAL ORDER, FINAL APPROVAL ORDER, AND DISMISSAL OF ACTION AND FEDERAL ACTION**

7.1. Within seven (7) days of the execution of this Settlement Agreement, Class Counsel shall file a stipulation of dismissal of the Federal Action with prejudice in the form attached as Exhibit D.

7.2. Within thirty (30) calendar days after the execution of this Settlement Agreement, Class Counsel shall submit this Agreement together with its Exhibits to the Court and shall move the Court for Preliminary Approval of the settlement set forth in this Agreement; certification of the Settlement Class for settlement purposes only; appointment of Class Counsel and the Class Representative; and entry of a Preliminary Approval Order, which order shall set a Final Approval Hearing date and approve the Notice and Claim Form for dissemination substantially in the form of Exhibits A, B, and C hereto. The Preliminary Approval Order shall also authorize the Parties, without further approval from the Court, to agree to and adopt such amendments, modifications and expansions of the Settlement Agreement and its implementing documents (including all exhibits to this Agreement) so long as they are consistent in all material respects with the terms of the Settlement Agreement and do not limit or impair the rights of the Settlement Class.

7.3. Preliminary Approval and Preliminary Fairness Hearing. Defendant's Counsel and Class Counsel agree to collaborate in their presentation(s) at the preliminary approval and

preliminary fairness hearing, with Defendant's Counsel and Class Counsel using their reasonable best efforts to establish that this settlement is in the best interests of the Settlement Class.

7.4. Defendant's agreement as to certification of the Settlement Class and Subclasses is solely for purposes of effectuating the Settlement and no other purpose. Defendant retains all of its objections, arguments, and defenses with respect to class certification and any other issues, and reserves all rights to contest class certification and any other issue if the Settlement set out in this Agreement does not result in entry of the Final Approval Order and Final Judgment, if the Court's approval is reversed or vacated on appeal, if this Settlement is terminated as provided herein, or if the Settlement set forth in this Settlement Agreement otherwise fails to become effective. The Parties acknowledge that there has been no stipulation to any classes or certification of any classes for any purpose other than effectuating the Settlement, and that if the Settlement set forth in this Settlement Agreement is not finally approved, if the Court's approval is reversed or vacated on appeal, if this Settlement Agreement is terminated as provided herein, or if the Settlement set forth in this Settlement Agreement otherwise fails to become effective, this agreement as to certification of the Settlement Class becomes null and void *ab initio*, and this Settlement Agreement or any other settlement-related statement may not be cited regarding certification of the Class, or in support of an argument for certifying any class for any purpose related to this Action or any other proceeding.

7.5. At the time of the submission of this Agreement to the Court as described above, Class Counsel shall request that, after Notice is given, the Court hold a Final Approval Hearing and approve the settlement of the Action as set forth herein.

7.6. After Notice is given, the Parties shall request and seek to obtain from the Court a Final Judgment, which will (among other things):

7.6.1. Find that the Court has personal jurisdiction over all Settlement Class Members and that the Court has subject matter jurisdiction to approve the Agreement, including all exhibits thereto;

7.6.2. Certify the Settlement Class and Subclasses;

7.6.3. Approve the Settlement Agreement and the proposed settlement as fair, reasonable, and adequate as to, and in the best interests of, the Settlement Class Members; direct the Parties and their Counsel to implement and consummate the Agreement according to its terms and provisions; and declare the Agreement to be binding on, and have *res judicata* and preclusive effect in all pending and future lawsuits or other proceedings maintained by or on behalf of the Settlement Class Members and Releasing Parties;

7.6.4. Find that the Notice implemented pursuant to the Agreement (1) constitutes the best practicable notice under the circumstances; (2) constitutes notice that is reasonably calculated, under the circumstances, to apprise the Settlement Class of the pendency of the Action, their right to object to or exclude themselves from the proposed Agreement, and to appear at the Final Approval Hearing; (3) is reasonable and constitutes due, adequate, and sufficient notice to all persons entitled to receive notice; and (4) meets all applicable requirements of the New York Rules of Civil Procedure, the Due Process Clauses of the United States and New York Constitutions, and the rules of the Court;

7.6.5. Find that the Class Representative and Class Counsel adequately represent the Settlement Class for purposes of entering into and implementing the Agreement;

7.6.6. Dismiss the Action (including all individual claims and Settlement Class Claims presented thereby) on the merits and with prejudice, without fees or costs to any party except as provided in the Settlement Agreement;

7.6.7. Incorporate the Release set forth above in Section 3 of this Agreement, make the Release effective as of the date of the Effective Date, and forever discharge the Released Parties as set forth herein;

7.6.8. Permanently bar and enjoin all Settlement Class Members who have not been properly excluded from the respective Settlement Class from filing, commencing, prosecuting, intervening in, or participating (as class members or otherwise) in, any lawsuit or other action in any jurisdiction based on the Released Claims;

7.6.9. Without affecting the finality of the Final Judgment for purposes of appeal, retain exclusive jurisdiction as to all matters relating to administration, consummation, enforcement, and interpretation of the Settlement Agreement and the Final Judgment, and for any other necessary purpose, except as set forth in the Agreement; and

7.6.10. Incorporate any other provisions, as the Court deems necessary and just.

7.7. Review of Filings and Other Settlement-Related Documents. All motions, pleadings, filings, reports, forms, and other documents related to approval or performance of the settlement shall be submitted to Defendant's Counsel for reasonably prompt comment as to form and content prior to submission or transmission to the Court and/or Class Members. This includes, but is not limited to, the Preliminary Approval motion, the Notice motion, the Settlement Claim process, the Final Approval motion, the proposed Final Judgment and Order of Dismissal, and all exhibits thereto.

**8. CLASS COUNSEL'S ATTORNEYS' FEES, REIMBURSEMENT OF EXPENSES, AND SERVICE AWARD**

8.1. Class Counsel may receive, subject to Court approval, attorneys' fees, costs, and expenses not to exceed \$595,000.00. Class Counsel will petition the Court for such Fee Award and Defendant agrees to not object to or otherwise challenge, directly or indirectly, Class Counsel's petition for reasonable attorneys' fees and for reimbursement of costs and expenses if limited to the amount set forth in this Section. Class Counsel, in turn, agrees to seek no more than the amount set forth in this Section from the Court in attorneys' fees and for reimbursement of costs and expenses.

8.2. The Fee Award shall be payable within ten (10) days from the later of: (i) the Effective Date; or (ii) the provision of payment routing information and tax I.D. numbers for Class Counsel. Payment of the Fee Award shall be made by the Settlement Administrator by wire transfer to Class Counsel in accordance with the instructions provided by Class Counsel, after completion of necessary forms by Class Counsel, including, but not limited to, W-9 forms. Notwithstanding the foregoing, if for any reason the Final Judgment is reversed or rendered void as a result of an appeal(s), then any Persons or firms who shall have received the funds shall be severally liable for payments made pursuant to this Section, and shall return such funds to the Defendant.

8.3. Subject to Court approval, Plaintiff J.C. may be paid a service award by Defendant, in addition to any settlement payment as a result of an Approved Claim pursuant to this Agreement, and in recognition of her efforts on behalf of the Settlement Class. Plaintiff J.C. may request a service award of \$5,000. Defendant will not object to or otherwise challenge, directly or indirectly, Class Counsel's application for the service award to the Class Representative if limited to this amount. Class Counsel, in turn, agrees to seek no more than this amount from the Court as a service award for the Class Representative. If approved, such award will be paid by Defendant within ten

(10) days from the later of: (i) the Effective Date; or (ii) the provision of a W9 and payment instructions.

## **9. CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL, CANCELLATION, OR TERMINATION**

9.1. The Effective Date means the date on which the Agreement becomes final, which shall be one (1) business day following the latest of: (i) the date upon which the time expires for filing or noticing any appeal of the Court's Final Judgment approving the Settlement Agreement; (ii) if there is an appeal or appeals, other than an appeal or appeals solely with respect to the Fee Award, the date of completion, in a manner that finally affirms and leaves in place the Final Judgment without any material modification, of all proceedings arising out of the appeal or appeals (including, but not limited to, the expiration of all deadlines for motions for reconsideration or petitions for review and/or certiorari, all proceedings ordered on remand, and all proceedings arising out of any subsequent appeal or appeals following decisions on remand); or (iii) the date of final dismissal of any appeal or the final dismissal of any proceeding on certiorari.

9.2. In the event that the Agreement is not approved by the Court, or the settlement set forth in this Agreement is terminated or fails to become effective in accordance with its terms, then this Settlement Agreement shall be canceled and terminated subject to Section 6.1 unless Class Counsel and Defendant's Counsel mutually agree in writing to proceed with this Agreement. If any Party is in material breach of the terms hereof and fails to cure such material breach within thirty (30) days of notice, any other Party, provided that it is in substantial compliance with the terms of this Agreement, may terminate this Agreement on notice to all of the Parties.

9.3. If this Agreement is terminated or fails to become effective for the reasons set forth in Sections 7 and 10, the Parties shall be restored to their respective positions in the Action as of the date of the signing of this Agreement.

## **10. MISCELLANEOUS PROVISIONS**

10.1. The Parties (a) acknowledge that it is their intent to consummate this Settlement Agreement; and (b) agree, subject to their fiduciary and other legal obligations, to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Agreement, to exercise their reasonable best efforts to accomplish the foregoing terms and conditions of this Agreement, to secure final approval, and to defend the Final Judgment through any and all appeals. Class Counsel and Defendant's Counsel agree to cooperate with one another in seeking Court approval of the Settlement Agreement, entry of the Preliminary Approval Order, and the Final Judgment, and promptly to agree upon and execute all such other documentation as may be reasonably required to obtain final approval of the Agreement.

10.2. The Parties intend this Settlement Agreement to be a final and complete resolution of all disputes between them with respect to the Released Claims by Releasing Parties and each or any of them, on the one hand, against each or any of the Released Parties, on the other hand. Accordingly, the Parties agree not to assert in any forum that the Action was brought by Plaintiff or defended by Defendant, or each or any of them, in bad faith or without a reasonable basis.

10.3. The Parties have relied upon the advice and representation of counsel, selected by them, concerning their respective legal liability for the claims hereby released. The Parties have read and understand fully the above and foregoing agreement and have been fully advised as to the legal effect thereof by counsel of their own selection and intend to be legally bound by the same.

10.4. Whether or not the Effective Date occurs or the Settlement Agreement is terminated, neither this Agreement nor the Settlement contained herein, nor any act performed or document executed pursuant to or in furtherance of this Agreement or the Settlement:



10.4.1. Is, may be deemed, or shall be used, offered or received against the Released Parties, or each or any of them, as an admission, concession or evidence of, the validity of any Released Claims, the truth of any fact alleged by the Plaintiff, the deficiency of any defense that has been or could have been asserted in the Action, the violation of any law or statute, the reasonableness of the settlement amount or the Fee Award, or of any alleged wrongdoing, liability, negligence, or fault of the Released Parties, or any of them;

10.4.2. Is, may be deemed, or shall be used, offered or received against Defendant, as an admission, concession or evidence of any fault, misrepresentation or omission with respect to any statement or written document approved or made by the Released Parties, or any of them;

10.4.3. Is, may be deemed, or shall be used, offered or received against the Released Parties, or each or any of them, as an admission or concession with respect to any liability, negligence, fault or wrongdoing as against any Released Parties, in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. However, the Settlement, this Agreement, and any acts performed and/or documents executed in furtherance of or pursuant to this Agreement and/or Settlement may be used in any proceedings as may be necessary to effectuate the provisions of this Agreement. Further, if this Settlement Agreement is approved by the Court, any Party or any of the Released Parties may file this Agreement and/or the Final Judgment in any action that may be brought against such Party or Parties 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;

10.4.4. Is, may be deemed, or shall be construed against Plaintiff, the Settlement Class, the Releasing Parties, or each or any of them, or against the Released Parties, or each or any of them, as an admission or concession that the consideration to be given hereunder represents an amount equal to, less than or greater than that amount that could have or would have been recovered after trial; and

10.4.5. Is, may be deemed, or shall be construed as or received in evidence as an admission or concession against Plaintiff, the Settlement Class, the Releasing Parties, or each and any of them, or against the Released Parties, or each or any of them, that any of Plaintiff's claims are with or without merit or that damages recoverable in the Action would have exceeded or would have been less than any particular amount.

10.5. The headings used herein are used for the purpose of convenience only and are not meant to have legal effect.

10.6. The waiver by one Party of any breach of this Agreement by any other Party shall not be deemed as a waiver of any other prior or subsequent breaches of this Agreement.

10.7. All of the Exhibits to this Agreement are material and integral parts thereof and are fully incorporated herein by this reference.

10.8. This Agreement and its Exhibits set forth the entire agreement and understanding of the Parties with respect to the matters set forth herein, and supersede all prior negotiations, agreements, arrangements and undertakings with respect to the matters set forth herein. No representations, warranties or inducements have been made to any Party concerning this Settlement Agreement or its Exhibits other than the representations, warranties and covenants contained and memorialized in such documents. This Agreement may be amended or modified

only by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest.

10.9. Except as otherwise provided herein, each Party shall bear its own costs.

10.10. Plaintiff represents and warrants that she has not assigned any claim or right or interest therein as against the Released Parties to any other Person or Party and that they are fully entitled to release the same.

10.11. Each counsel or other Person executing this Settlement Agreement, any of its Exhibits, or any related settlement documents on behalf of any Party hereto, hereby warrants and represents that such Person has the full authority to do so and has the authority to take appropriate action required or permitted to be taken pursuant to the Agreement to effectuate its terms. Class Counsel in particular warrants that they are authorized to execute this Settlement Agreement on behalf of Plaintiff and the Settlement Class (subject to final approval by the Court after notice to all Settlement Class Members), and that all actions necessary for the execution of this Settlement Agreement have been taken.

10.12. This Agreement may be executed in one or more counterparts. Signature by digital means, facsimile, or in PDF format will constitute sufficient execution of this Agreement. 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 if the Court so requests.

10.13. This Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto and the Released Parties.

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

10.15. This Settlement Agreement shall be governed by and construed in accordance with the laws of the State of New York.

10.16. This Agreement is deemed to have been prepared by counsel for all Parties, as a result of arm's-length negotiations among the Parties. Because all Parties have contributed substantially and materially to the preparation of this Agreement, it shall not be construed more strictly against one Party than another.

10.17. Where this Agreement requires notice to the Parties, such notice shall be sent to the undersigned counsel: Lisa L. Smith, Phillips Lytle LLP, One Canalside, 125 Main Street, Buffalo, NY 14203; and Philip J. Krzeski, Chestnut Cambronne PA, 100 Washington Ave. S., Ste. 1700, Minneapolis, MN 55401.

10.18. The Parties agree to the following timeline, which shall control over any inconsistent dates herein (subject to Court approval):

#### **SETTLEMENT TIMELINE**

<b><u>Grant of Preliminary Approval</u></b>	
CHS provides the Settlement Class List to the Settlement Administrator	+14 days after Preliminary Approval
Settlement Website Launch	+30 days after Preliminary Approval
Notice Date	+30 days after Preliminary Approval
Counsel's Motion for Attorneys' Fees and Class Representative Service Award	+76 days after Preliminary Approval
First Reminder Notice	+90 days after Preliminary Approval
Objection Deadline	+60 days after Preliminary Approval
Opt-Out Deadline	+60 days after Preliminary Approval
Settlement Administrator Provide Notice of Opt-Outs and/or Objections	+104 days after Preliminary Approval
Second Reminder Notice	+113 days after Preliminary Approval
Claim Deadline	+120 days after Preliminary Approval
<b><u>Final Approval Hearing</u></b>	+150 days after Preliminary Approval (at minimum)
Motion for Final Approval	-14 days before Final Approval Hearing Date
<b><u>Final Approval</u></b>	

Effective Date	+31 days after Final Approval (assuming no appeals)
CHS to Fund the Balance Owed Under the Agreement	+10 days after Effective Date
Payment of Attorneys' Fees, Expenses, and Service Award	+10 days after Effective Date
CHS Funding of Cash Settlement Payments	+30 days after Effective Date
Distribution of Privacy Monitoring Services	+30 days after Effective Date
Stale Check Date	+180 days after Effective Date
Settlement Website Deactivation	+210 days after Effective Date

**J.C.**

  
Philip J. Krzeski (Sep 23, 2025 10:00:55 EDT)

Date: Sep 23, 2025

**CATHOLIC HEALTH SYSTEMS, INC.**

BY: \_\_\_\_\_  
Name and Title

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

**Approved as to form:**

**CHESTNUT CAMBRONNE PA**

/s/ Philip J. Krzeski

Philip J. Krzeski

Date: Sept. 23, 2025

**MILBERG COLEMAN BRYSON  
PHILLIPS GROSSMAN, PLLC**

\_\_\_\_\_  
Gary M. Klinger

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

**THE LYON FIRM**

\_\_\_\_\_  
Joseph M. Lyon

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

**MARKOVITS, STOCK & DEMARCO,  
LLC**

\_\_\_\_\_  
Dylan J. Gould

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

**PHILLIPS LYTLE LLP**

\_\_\_\_\_  
Lisa L. Smith

Anna Mercado Clark

William P. Keefer

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

*Attorney for Defendant*

*Attorneys for the Plaintiff and the Class*