

IN THE IOWA DISTRICT COURT FOR MUSCATINE COUNTY

DAMEN COX, on behalf of himself and all
others similarly situated,

Plaintiff,

v.

MUSCATINE POWER AND WATER,

Defendant.

Case No. CVCV027276

**ORDER GRANTING PLAINTIFF'S
UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

This matter came before the Court on Plaintiff's Unopposed Motion for Preliminary Approval of Class Settlement Agreement. Plaintiff individually and on behalf of the proposed Settlement Class, and Defendant have entered into a Settlement Agreement (the "Settlement Agreement") that settles the above-captioned litigation.

Plaintiff Damen Cox, individually and on behalf of all others similarly situated ("Plaintiffs" or "Class Representative") brought this class action case against Defendant Muscatine Power and Water ("MPW" or "Defendant"), and together with Plaintiff, "the Parties") on March 15, 2024. In his Amended Petition, Plaintiff alleged seven causes of action: (1) negligence, (2) invasion of privacy, (3) breach of implied contract, (4) unjust enrichment, (5) violation of the Iowa Consumer Fraud Act ("ICFA"), (6) violation of the Iowa Personal Information Security Breach Protection Act ("PISBPA"), and (7) declaratory relief. Plaintiff's Petition sought monetary, punitive, actual damages and/or restitution as well as declaratory and equitable relief relating to MPW's alleged data-security practices. Additionally, Plaintiff's Complaint also sought costs, experts' fees and attorney fees related to the prosecution of this action.

According to the Petition, Defendant suffered a targeted cyberattack and data breach, which resulted in the potential compromise of patients' personally identifiable information. The information potentially compromised consisted of names and Social Security numbers, among

other information.

The Parties, through their counsel, have entered into a Settlement Agreement following good faith, arm's-length negotiations and a mediation overseen by Michael Ungar, Esq. 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, including the exhibits attached thereto, 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.¹

1. **Class Certification for Settlement Purposes Only**. For settlement purposes only and pursuant to Iowa Rules of Civil Procedure 1.261-1.279, the Court provisionally certifies a class in this matter defined as follows:

All individuals whose Personal Information was potentially compromised in the Data Incident.

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 Representatives 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 Representatives and Class Counsel will fairly and adequately protect the interests of the Settlement Class as the Settlement Class Representative has no interest antagonistic to or in conflict with the Settlement Class and have retained experienced and competent counsel to prosecute this matter on behalf of the Settlement Class; (e) questions of

¹ Unless otherwise indicated, capitalized terms used herein have the same meaning as in the Settlement Agreement.

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 controversy.

2. **Class Representatives and Class Counsel.**

Damen Cox is hereby provisionally designated and appointed as the Class Representative. The Court provisionally finds that the Settlement Class Representative is similarly situated to absent Class Members and therefore typical of the Class and that he will be adequate Class Representatives.

The Court finds that the following counsel are experienced and adequate counsel and are hereby provisionally designated as Settlement Class Counsel pursuant to Iowa Rules of Civil Procedure 1.261-1.279: Nicholas A. Migliaccio and Jason S. Rathod of Migliaccio & Rathod LLP.

3. **Preliminary Settlement Approval.** Upon preliminary review, the Court concludes and 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.

4. **Jurisdiction.** The Court concludes that it has subject matter jurisdiction and personal jurisdiction over the Parties before it for the purposes of the Settlement. Additionally, venue is proper in this District.

5. **Final Approval Hearing.** A Final Approval Hearing shall be held on December 17, 2026 at 9:00 o'clock a.m. in The District Court of Muscatine County, Iowa, 401 East 3rd Street Muscatine, IA 52761. Hearing shall be held via Zoom with counsel for Plaintiff and Defendant permitted to attend remotely. The Final Approval Hearing shall be held to determine, among other things, whether: (a) this matter should be finally certified as a class action for settlement purposes pursuant to Iowa Rules of Civil Procedure 1.261-1.279; (b) the Settlement should be finally

approved as fair, reasonable, and adequate pursuant to Iowa Rules of Civil Procedure 1.261-1.279; (c) the action should be dismissed with prejudice pursuant to the terms of the Settlement Agreement; (d) Settlement Class Members should be bound by the releases set forth in the Settlement Agreement; (e) the motion of Settlement Class Counsel for an award of attorneys' fees and expenses (the "Fee Request") should be approved pursuant to Iowa Rules of Civil Procedure 1.261-1.279; and (f) the motion of the Settlement Class Representatives for Service Awards (the "Service Award Request") should be approved.

Plaintiffs' Motion for Final Approval of the Settlement, Service Award Request, and Fee Request shall be filed with the Court at least **14 Days prior to the Final Approval Hearing**.

6. **Administration.** The Court appoints Simpluris, Inc. ("Simpluris") as the Settlement Administrator, with responsibility for class notice and claims administration and to fulfill the duties of the Settlement Administrator set forth in the Settlement Agreement. All costs and expenses associated with providing notice to Settlement Class Members including but not limited to, the Settlement Administrator's fees, as well as the costs associated with administration of the Settlement, will be paid from the Settlement Fund.

7. **Notice to the Class.** The proposed Notice Program set forth in the Settlement Agreement, and the Claim Form, Short-Form Notice, and Long-Form Notice attached to the Settlement Agreement as Exhibits A, B, and C satisfy the requirements of Iowa Rules of Civil Procedure 1.271 provide the best notice practicable under the circumstances, and are hereby approved. Non-material modifications to these Exhibits may be made without further order of the Court. The Settlement Administrator and Defendant are directed to carry out the Notice Program in conformance with the Settlement Agreement.

Within **10 days from the date of this Order**, Defendant shall provide the Settlement

Administrator with a list of Settlement Class Members, in such a format as requested by the Settlement Administrator, that Defendant has been able to identify.

Within **30 days of receiving the Settlement Class Member list (the “Notice Deadline”)**, the Settlement Administrator shall initiate the Notice Program, which shall be completed in the manner set forth in Section 4.2 of the Settlement Agreement.

8. **Findings and Conclusions Concerning Notice.** The Court finds that the form, content, and method of giving notice to the Settlement Class as described in Paragraph 8 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, and their rights under 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 the Court concludes that the Notice Program meets all applicable requirements of law, including Iowa Rule of Civil Procedure 1.271, and the Due Process Clause(s) of the Iowa and United States Constitutions. 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.

9. **Exclusion from Class.** Each Person wishing to opt-out of the Settlement Class shall individually sign and timely submit written notice of such intent to the designated Post Office box established by the Claims Administrator. The written notice must clearly manifest a Person’s intent to be excluded from the Settlement Class. To be effective, this written notice (a Request for Exclusion) must be postmarked no later than the Opt-Out Date, which is **sixty (60) days after the**

Notice Deadline.

The Settlement 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 within **seven (7) days after the Opt-Out Date**.

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 Agreement. If a Final Order and 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 set forth in the Final Order and Judgment, including Settlement Class Members who have previously initiated or who subsequently initiate any litigation against any or all of the Released Persons relating to the claims and transactions released in the Settlement Agreement. All Settlement 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.

10. **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.

Each Settlement Class Member desiring to object to the Settlement Agreement shall submit a timely written notice of his or her objection by the Objection Date. Such notice shall state: (i) the objector's full name, address, telephone number, and e-mail address (if any); (ii) information identifying the objector as a Settlement Class Member, including proof that the objector is a member of the Settlement Class (e.g., copy of notice, copy of original notice of the Data Incident); (iii) a written statement of all grounds for the objection, accompanied by any legal support for the

objection the objector believes applicable; (iv) a statement as to whether the objection applies only to the objector, to a specific subset of the class, or to the entire class; (v) the identity of any and all counsel representing the objector in connection with the objection; (vi) a statement as to whether the objector and/or his or her counsel will appear at the Final Fairness Hearing; (vii) a list of all settlements to which the objector and/or their counsel have objected in the preceding three (3) years; and (viii) the objector's signature and the signature of the objector's duly authorized attorney or other duly authorized representative (along with documentation setting forth such representation). To be timely, written notice of an objection must be mailed to the designated Post Office box established by the Settlement Administrator by the Objection Date, which is **sixty (60) days after the Notice Deadline**.

Any Settlement Class Member who fails to comply with the provisions in this Paragraph may 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 the Final Order and Judgment is entered.

Any Settlement Class Member, including a Settlement Class Member who 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 an objecting Settlement Class Member intends to appear at the Final Approval Hearing, either with or without counsel, he or she must also file a notice of appearance with the Court (as well as serve on Settlement Class Counsel and Defendant's Counsel) by the Objection Date. If the objecting Settlement Class Member intends to appear at the Final Approval Hearing through

counsel, he or she must also identify the attorney(s) representing the objecting Settlement Class Member who will appear at the Final Approval Hearing and include the attorney(s) name, address, phone number, email address, state bar(s) to which counsel is admitted, as well as associated state bar numbers. If the objecting Settlement Class Member intends to request the Court for permission to call witnesses at the Final Approval Hearing, the objecting Settlement Class Member must provide a list of any such witnesses together with a brief summary of each witness's expected testimony at least thirty (30) Days before the Final Approval Hearing.

If the Final Order and 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, the Service Award Request, or the Fee Request.

11. **Claims Process and Distribution and Allocation Plan.** 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 plan for remuneration described in Section 2 of the Settlement Agreement and directs that the Claims Administrator effectuate the distribution of Settlement consideration according to the terms of the Settlement Agreement, should the Settlement be finally approved.

Settlement Class Members who qualify for and wish to submit a Claim Form shall do so in accordance with the requirements and procedures specified in the Notice and the Claim Form. If the Final Order and Judgment is entered, all Settlement Class Members who qualify for any benefit under the Settlement but fail to submit a claim in accordance with the requirements and

procedures specified in the Notice and the Claim Form shall 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 that Settlement Agreement, and the Final Order and Judgment.

12. **Termination of 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 as of the date of the execution of the Settlement Agreement 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.

13. **Use of Order.** This Order shall be of no force or effect if a Final Order and Judgment is not entered or there is no Effective Date and shall not be construed or used as an admission, concession, or declaration by or against Defendant of any fault, wrongdoing, breach, liability, 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 claim lacks merit or that the relief requested is inappropriate, improper, unavailable, or as a waiver by any Party of any defense or claim he, she, or it may have in this litigation or in any other lawsuit.

14. **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 Order and Judgment, or until further order of this Court.

15. **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 Settlement 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.

16. **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:

Notice Deadline: 30 Days after Settlement Administrator's receipt of Settlement Class Member List from Defendant

Motion for Final Approval: 14 Days before Final Approval Hearing

Motion for Service Award, Attorneys' Fees and Costs: 14 Days before the deadline for Settlement Class Members to Object to or Opt-Out of the Settlement

Opt-Out Deadline: 60 Days after Preliminary Approval

Objection Deadline: 60 Days after Preliminary Approval

Claim Deadline: 75 Days after Preliminary Approval

Final Approval Hearing: Not less than 130 Days after Preliminary Approval. The Court hereby sets the Final Approval Hearing for December 17, 2026 at 9:00 a.m.



State of Iowa Courts

Case Number
CVCV027276
Type:

Case Title
DAMEN COX VS MUSCATINE POWER & WATER
OTHER ORDER

So Ordered

A handwritten signature in black ink, reading "Elizabeth O'Donnell". The signature is written in a cursive style and is positioned above a horizontal line.

Elizabeth O'Donnell, District Court Judge,
Seventh Judicial District of Iowa

Electronically signed on 2026-08-10 13:26:30