

EXHIBIT A

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

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**GRACE OLIVERI, TRACY POLICICCHIO, and
E.B. by his guardian, CANDACE BASSI,
individually, and on behalf of all
others similarly situated,**

Index No.: 66660/2024

Plaintiffs,

-against-

**MOUNT KISCO SURGERY CENTER LLC, D/B/A
THE AMBULATORY SURGERY CENTER OF
WESTCHESTER,**

Defendant.

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CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

This Class Action Settlement Agreement and Release (“Settlement” or “Agreement”),¹ dated as of October 30, 2025 is entered into between Plaintiffs Grace Oliveri, Tracy Policicchio and E.B., by his guardian, Candace Bassi, on behalf of themselves and the Settlement Class, on the one hand, and Defendant Mount Kisco Surgery Center LLC, d/b/a The Ambulatory Surgery Center of Westchester (“Mount Kisco” or “Defendant”) on the other hand. The Parties hereby agree to the following terms in full settlement of the Action, subject to a Final Approval Order entered by the Court.

I. Background

1. Defendant is a New York-based “state-of-the-art outpatient surgical center” with a principal place of business located at 34 South Bedford Rd, Mt Kisco, NY, United States, 10549.

¹ All capitalized terms herein shall have the same meanings as those ascribed to them in Section II below.

2. On or about November 3, 2023, Defendant discovered that Private Information (as defined herein) was potentially accessible by unauthorized parties (the “Data Security Incident”). On June 26, 2024, Defendant began sending out notice letters to affected persons, informing them that their Private Information may have been impacted by the Data Security Incident. Defendant denied, and continues to deny, liability and any wrongdoing.

3. Class Counsel conducted extensive research regarding how the breach occurred, the type of information involved, the demographics of the Class and other related issues.

4. Two class action lawsuits were filed in this Court against Defendant. On August 5, 2024, Plaintiff Oliveri filed the first action, *Oliveri v. Mount Kisco Surgery Center, LLC* (Index No: 66660/2024). On August 19, 2024, Plaintiffs Policicchio and E.B. (by his guardian Candace Bassi) filed the second action, *Policicchio, et al. v. Mount Kisco Surgery Center, LLC* (Index No. 67494/2024). On September 30, 2024, Plaintiffs moved to consolidate the two actions and appoint Class Counsel as Interim Co-Lead Counsel. The Court granted the Motion on December 12, 2024.

5. On April 1, 2025, Defendant filed a Motion to dismiss. The Motion was fully briefed by the Parties. On October 3, 2025, the Court denied the Motion.

6. On September 26, 2025, the parties mediated with Hon. David E. Jones (ret.), an experienced data breach mediator. Prior to mediation, the parties exchanged informal discovery requests and mediation briefs outlining their positions with respect to liability, damages, and settlement-related issues. The Parties reached a settlement in principle at mediation.

7. The Parties now agree to settle the Action entirely, without any admission of liability or wrongdoing, with respect to all Released Claims of the Releasing Parties. Defendant has entered into this Agreement to resolve all controversies and disputes arising out of or relating to the allegations made in the Complaint, and to avoid the litigation costs and expenses,

distractions, burden, expense, and disruption to its business operations associated with further litigation. Defendant does not in any way acknowledge, admit to, or concede any of the allegations made in the Complaint, and expressly disclaims and denies any fault or liability, or any charges of wrongdoing that have been or could have been asserted in the Complaint. Nothing contained in this Agreement shall be used or construed as an admission of liability, and this Agreement shall not be offered or received in evidence in any action or proceeding in any court or other forum as an admission or concession of liability or wrongdoing of any nature or for any other purpose other than to enforce the terms of this Agreement. Plaintiffs have entered into this Agreement to recover on the claims in the Complaint, and to avoid the risk, delay, and uncertainty of continued litigation. Plaintiffs do not in any way concede that the claims alleged in the Complaint lack merit or are subject to any defenses. The Parties intend this Agreement to bind Plaintiffs, Defendant, and all Settlement Class Members.

NOW, THEREFORE, in light of the foregoing, for good and valuable consideration, the receipt and sufficient of which is hereby mutually acknowledged, the Parties agree, subject to approval by the Court, as follows.

II. Definitions

16. “Action” means the lawsuit entitled: *Grace Oliveri, et al. v. Mount Kisco Surgery Center LLC, d/b/a/ The Ambulatory Surgery Center of Westchester* Case No. 66660/2024, filed in the State of New York, County of Westchester, along with all other cases consolidated therewith.

17. “Cash Payment” means compensation paid to Settlement Class Members who submit a valid Claim.

18. “Cash Payment A” means the Settlement Class Member Benefit that Settlement Class members, who incurred documented losses, may elect under Section V herein.

19. “Cash Payment B” means the Settlement Class Member Benefit consisting of a cash payment that Settlement Class Members may elect under Section V herein.

20. “Claim” means the submission of a Claim Form by a Claimant.

21. “Claim Form” means the proof of claim, substantially in the form attached hereto as *Exhibit 4*, which may be modified, subject to the Parties’ approval, to meet the requirements of the Settlement Administrator.

22. “Claim Form Deadline” shall be 60 days after the Notice Date and is the last day by which a Claim Form may be submitted to the Settlement Administrator for a Settlement Class Member to be eligible for a Cash Payment.

23. “Claimant” means a Settlement Class Member who submits a Claim Form.

24. “Class Counsel” means: David K. Lietz of Milberg Coleman Bryson Phillips Grossman, PLLC, Scott Edward Cole of Cole & Van Note and Leigh Montgomery of Ellzey, Kherkher, Sanford & Montgomery LLP.

25. “Class List” means a list of all individuals in the Settlement Class. Defendant shall prepare and provide the Class List to the Settlement Administrator for Notice using information in its records. The Class List shall include the Settlement Class Member’s names, email addresses (if available) postal addresses (if available), and telephone numbers (if available). “Class Representative” means Plaintiffs Grace Oliveri, Tracy Policicchio, and E.B. by his guardian, Candace Bassi.

26. “Complaint” means the Consolidated Amended Class Action Complaint filed in the Action on March 12, 2025.

27. “Court” means the Supreme Court of the State of New York, Westchester County, and the Judge(s) assigned to the Action.

28. “Data Security Incident” means the alleged incident that was discovered on or around November 3, 2023, in which unauthorized third parties had the opportunity to potentially gain access to Settlement Class Members’ Private Information from Defendant’s systems.

29. “Defendant” means Mount Kisco Surgery Center LLC, d/b/a The Ambulatory Surgery Center of Westchester.

30. “Defendant’s Counsel” means Richard M. Haggerty of Mullen Coughlin LLC.

31. “Effective Date” means one business day following the latest of: (i) the date upon which the time expires for filing or noticing any appeal of the Final Approval Order, (ii) if there is an appeal or appeals, other than an appeal or appeals solely with respect to the Fee Award or Service Award, the date of completion, in a manner that finally affirms and leaves in place the Final Approval Order without any material modification, of all proceedings arising out of the appeal(s) (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(s) following decisions on remand) or (iii) the date of final dismissal of any appeal or the final dismissal of any proceeding on certiorari with respect to the Final Approval Order. If there are no timely objectors, the Effective Date is one day after the Final Approval Order is entered by the Court.

32. “Email Notice” means the email notice of the Settlement, substantially in the form attached hereto as *Exhibit 1*, that the Settlement Administrator shall disseminate to the Settlement Class by email to those on the Class List for which Defendant possesses an email address.

33. “Escrow Account” means the interest-bearing account to be established by the Settlement Administrator consistent with the terms and conditions described herein.

34. “Final Approval” means the final approval of the Settlement, which occurs when

the Court enters the Final Approval Order, substantially in the form attached to the Motion for Final Approval.

35. “Final Approval Hearing” means the hearing held before the Court during which the Court will consider granting Final Approval of the Settlement and the Motion for Attorneys’ Fees, Costs, and Service Award.

36. “Final Approval Order” means the final order that the Court enters granting Final Approval of the Settlement. The proposed Final Approval Order will be attached as an exhibit to the Motion for Final Approval. The Final Approval Order also includes the orders, which may be entered separately, determining the amount of attorneys’ fees and costs awarded to Class Counsel.

37. “Long Form Notice” means the long form notice of the Settlement, substantially in the form attached hereto as *Exhibit 3*, that shall be posted on the Settlement Website and shall be available to Settlement Class Members by mail on request made to the Settlement Administrator.

38. “Motion for Attorneys’ Fees, Costs, and Service Award” means the motion seeking a Service Award for the Class Representative and Class Counsel’s attorneys’ fees and reimbursement for costs.

39. “Motion for Final Approval” means the motion that Plaintiffs and Class Counsel shall file with the Court seeking Final Approval of the Settlement.

40. “Motion for Preliminary Approval” means the motion that Plaintiffs shall file with the Court seeking Preliminary Approval of the Settlement.

41. “Notice” means the Email Notice, Postcard Notice, Long Form Notice, Settlement Website, and settlement telephone line that Plaintiffs and Class Counsel will ask the Court to approve in connection with the Motion for Preliminary Approval.

42. “Notice Date” means thirty (30) days after entry of the Preliminary Approval Order.

43. “Notice Program” means the methods provided for in this Agreement for giving Notice and consists of the Email Notice, Postcard Notice, Long Form Notice, Settlement Website, and Settlement telephone line.

44. “Notice of Deficiency” means the notice sent by the Settlement Administrator to a Settlement Class Member who has submitted an invalid Claim.

45. “Objection Period” means the period that begins the day after the earliest day on which the Notice is first distributed, and that ends no later than 60 days after the Notice Date.

46. “Opt-Out Period” means the period that begins the day after the earliest day on which the Notice is first distributed, and that ends no later than 60 days after the Notice Date.

47. “Party” means each of the Plaintiffs and the Defendant, and “Parties” means Plaintiffs and Defendant collectively.

48. “Plaintiffs” means Grace Oliveri, Tracy Policicchio and E.B., by his guardian, Candace Bassi, on behalf of themselves and the Settlement Class.

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

50. “Postcard Notice” means the postcard notice of the Settlement, substantially in the form attached hereto as *Exhibit 2*, that the Settlement Administrator shall disseminate to the Settlement Class by mail.

51. “Preliminary Approval” means the preliminary approval of the Settlement, which occurs when the Court enters the Preliminary Approval Order, without material change to the

Parties' agreed-upon proposed preliminary approval order attached as an exhibit to the Motion for Preliminary Approval.

52. "Preliminary Approval Order" means the order preliminarily approving the Settlement and proposed Notice Program, without material change to the Parties' agreed-upon proposed preliminary approval order.

53. "Private Information" means Settlement Class Members' information that may have been exposed in the Data Security Incident, which may include full names, Social Security numbers, driver's licenses, state identification numbers, dates of birth, medical information, including diagnoses information, treatment information, and prescription information, health insurance information, including claim information and health insurance ID numbers and financial account information.

54. "Releases" means the releases and waiver set forth in Section XIII of this Agreement.

55. "Released Claims" means any and all past, present, and future claim, liability, right, demand, suit, obligation, damage, including consequential damage, loss or cost, punitive damage, attorneys' fees, costs, and expenses, action or cause of action, of every kind or description arising from, concerning, or related to the Data Security Incident or the allegations, transactions, occurrences, facts, or circumstances alleged in or otherwise described in the Action—whether known or Unknown (as the term "Unknown Claims" is defined herein), suspected or unsuspected, asserted or unasserted, liquidated or unliquidated, legal, statutory, or equitable—that was or could have been asserted against a Released Party on behalf of the Settlement Class regardless of whether the claims or causes of action are based on federal, state, or local law, statute, ordinance, regulation, contract, common law, or any other source, and regardless of whether they are foreseen or

unforeseen, suspected or unsuspected, fixed or contingent, or arising out of the claims or causes of action of every kind and description that were brought, alleged, argued, raised or asserted in any pleading or court filing in the Action.

56. “Released Parties” means Defendant and all of its past, present, and future parent companies, subsidiaries, divisions, departments, affiliates, predecessors, successors and assigns, and any and all of their past, present, and future directors, trustees, officers, executives, officials, employees, agents, servants, contractors, principals, stockholders, heirs, agents, insurers, reinsurers, members, attorneys, accountants, actuaries, fiduciaries, advisors, consultants, representatives, partners, joint venturers, licensees, licensors, independent contractors, subrogees, trustees, executors, administrators, predecessors, successors and assigns, and any other person or entity acting on a Released Party’s behalf, in their capacity as such, and includes, without limitation, any Person related to any such entity who is, was or could have been named as a defendant in any of the actions in the Action, other than any Person who is found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity occurrence of the Data Security Incident or who pleads *nolo contendere* to any such charge, and includes any entity with whom Defendant contracted that, on behalf of Defendant, held data involved in the Data Security Incident who is, was or could have been named as a defendant in any of the lawsuits in the Action. It is expressly understood that to the extent a Released Party is not a party to the Agreement, all such Released Parties are intended third-party beneficiaries of the Agreement.

57. “Releasing Parties” means (i) Plaintiffs and all Settlement Class Members who have not opted out, (ii) each of their respective executors, representatives, heirs, predecessors, assigns, beneficiaries, affiliates, successors, bankruptcy trustees, guardians, joint tenants, tenants

in common, tenants by the entireties, agents, attorneys, (iii) any entities in which Plaintiffs and/or other participating Settlement Class Members have or had a controlling interest or that has or had a controlling interest in him, her, or it, (iv) any other person or entity (including any governmental entity) claiming by or through, on behalf of, for the benefit of, derivatively for, or as representative of a Plaintiff and/or any other Settlement Class Member, and all those who claim through them or on their behalf, and (v) the respective past and present directors, governors, executive-committee members, officers, officials, employees, members, partners, principals, agents, attorneys, advisors, trustees, administrators, fiduciaries, consultants, service providers, representatives, successors in interest, assigns, beneficiaries, heirs, executors, accountants, accounting advisors, and auditors of any or all of the above persons or entities identified in (i)-(iv).

58. “Service Award” shall mean the payment the Court may award the Class Representatives in recognition of their role in this litigation, as set forth below.

59. “Settlement Administrator” means Simpluris.

60. “Settlement Administration Costs” means all costs and fees of the Settlement Administrator regarding Notice and settlement administration.

61. “Settlement Class” means all persons in the United States whose Private Information was potentially impacted as a result of the Data Security Incident. Excluded from the Settlement Class are (a) all persons who are governing board members of Defendant, (b) governmental entities, (c) the Court, the Court’s immediate family, and Court staff and (d) any individual who timely and validly opts-out of the Settlement.

62. “Settlement Class Member” means any member of the Settlement Class.

63. “Settlement Class Member Benefit” means Cash Payment A and Cash Payment B, elected by Settlement Class Members.

64. “Settlement Fund” means the non-reversionary cash fund that shall be established by Defendant in the amount of \$527,500.

65. “Settlement Website” means the website the Settlement Administrator will establish as a means for the Settlement Class Members to submit Claim Forms and obtain notice and information about the Settlement, including hyperlinked access to this Agreement, the Preliminary Approval Order, Long Form Notice, Claim Form, Motion for Final Approval, Motion for Attorneys’ Fees, Costs, and Service Award, and Final Approval Order, as well as other documents as the Parties agree to post or the Court orders posted. The Settlement Website shall remain online and operable for six months after Final Approval.

66. “Unknown Claims” means any and all Released Claims that Defendant or any Class Representative or any Settlement Class Member does not know or suspect to exist in his, her, or its favor as of the Effective Date including but not limited to any which, if known by him, her, or it, might have materially affected his, her, or its decision(s) with respect to the Settlement. Plaintiffs expressly shall have, and each other Settlement Class Member shall be deemed to have, and by operation of the Judgment shall have, upon the Effective Date, fully, finally and forever settled and released any and all Released Claims, including Unknown Claims. Class Representatives and Class Counsel acknowledge, and each Settlement Class Member by operation of law shall be deemed to have acknowledged, that the inclusion of “Unknown Claims” in the definition of Released Claims was separately bargained for and was a key element of the Settlement Agreement.

67. “Valid Claim” means a Claim Form submitted by a Settlement Class Member that is: (a) submitted in accordance with the provisions of the Settlement, (b) accurately, fully, and truthfully completed and executed, with all of the information requested in the Claim Form, by a

Settlement Class Member, (c) signed physically or by e-signature by a Settlement Class Member personally, subject to the penalty of perjury, (d) returned via mail and postmarked by the Claim Form Deadline, or, if submitted online, submitted by 11:59 p.m. Eastern time on the Claim Form Deadline and (e) determined to be valid by the Settlement Administrator. The Settlement Administrator may require additional information from the Claimant to validate the Claim, including, but not limited to, answers related to questions regarding the validity or legitimacy of the physical or e-signature. Failure to respond to the Settlement Administrator's Notice of Deficiency may result in a determination that the Claim is not a Valid Claim.

III. Settlement Fund

68. Within 30 days after Preliminary Approval and receipt of all necessary information required to make payment (e.g., wiring instructions and a W-9 form), Defendant shall deposit or cause to be deposited \$50,000 into the Escrow Account to allow the Settlement Administrator to pay Settlement Administration Costs. Within thirty (30) days after the Effective Date, Defendant shall deposit or cause to be deposited \$477,500 into the Escrow Account.

69. Under no circumstances shall Defendant be obligated to pay or cause to be paid more than \$527,500 in total as a result of this Agreement. No funds shall revert back to Defendant, except in the event this Agreement is voided, cancelled, or terminated, as described in Section XIV in this Agreement.

70. The Settlement Fund shall be used to pay: (1) Settlement Class Member Benefits to those Settlement Class Members who submit a Valid Claim, (2) any Service Award awarded to Class Representative, (3) any attorneys' fees and costs awarded to Class Counsel and (4) all Settlement Administration Costs.

71. The funds in the Escrow Account shall be deemed a "qualified settlement fund"

within the meaning of United States Treasury Reg. § 1.468B-1 at all times since creation of the Escrow Account. All taxes (including any estimated taxes, and any interest or penalties relating to them) arising with respect to the income earned by the Escrow Account or otherwise shall be paid from the Escrow Account, including any taxes or tax detriments that may be imposed on Defendant, Defendant's Counsel, Plaintiffs, and/or Class Counsel with respect to income earned by the Escrow Account, for any period during which the Escrow Account does not qualify as a "qualified settlement fund" for the purpose of federal or state income taxes or otherwise, shall be paid out of the Escrow Account. Defendant, Defendant's Counsel, Plaintiffs, and Class Counsel shall have no liability or responsibility for any of the taxes. The Escrow Account shall indemnify and hold Defendant, Defendant's Counsel, Plaintiffs, and Class Counsel harmless for all taxes (including, without limitation, taxes payable by reason of any such indemnification).

72. Other than the payment of the Settlement Fund monies as described in this Agreement, Defendant shall have no responsibility, financial obligation, or liability whatsoever with respect to the Settlement Fund or Escrow Account, investment of the Settlement Fund or Escrow Account, payment of federal, state, and local income, employment, unemployment, excise and any other taxes, penalties, interest or other charges related to taxes imposed on the Settlement Fund or Escrow Account or its disbursement, payment of administrative, legal, accounting, or other cost occasioned by the use or administration of the Settlement Fund or the Escrow Account.

IV. Certification of the Settlement Class

73. Plaintiffs shall propose and recommend to the Court that the Settlement Class be certified for Settlement purposes. Defendant agrees solely for purposes of the Settlement provided for in this Agreement, and the implementation of such Settlement, that this Action shall proceed as a class action; provided however, that if a Final Approval Order is not issued without material

change to the Parties' agreed-upon proposed final approval order, then any certification shall be null and void and, for the avoidance of doubt, Defendant shall retain all rights to object to any future requests to certify a class. Plaintiffs and Class Counsel shall not reference and may not rely on this Agreement in support of any subsequent motion for class certification of any class in the Action or any other lawsuit.

V. Settlement Consideration

74. Each Settlement Class Member may qualify for a Cash Payment, described herein. If a Settlement Class Member does not submit a Valid Claim or opt-out, the Settlement Class Member will release his or her claims against Defendant without receiving a Settlement Class Member Benefit.

a. Cash Payment A – Documented Losses

Settlement Class Members may submit a claim for a Cash Payment under this section for up to \$5,000 per Settlement Class Member upon presentation of Documented Losses related to the Data Security Incident. To receive a Documented Loss payment, a Settlement Class Member must elect Cash Payment A on the Claim Form attesting under penalty of perjury to incurring documenting losses. Settlement Class Members will be required to submit reasonable documentation supporting the losses. Settlement Class Members shall not be reimbursed for expenses if they have been reimbursed for the same expenses by another source. If a Settlement Class Member does not submit reasonable documentation supporting a loss, or, if his or her Claim is rejected by the Settlement Administrator for any reason and the Settlement Class Member fails to cure his or her Claim, the Claim for Cash Payment A will be rejected, and the Settlement Class Member will only receive Cash Payment B (detailed below). To ensure full compensation for Settlement Class Members with document losses before allocation of remaining funds, payments

to Cash Payment A Claimants will be given priority over Claimants for a Pro Rata Payment (Cash Payment B, described below) (i.e., the Net Settlement Fund will first be reduced by the aggregate amount of Settlement Class Members making claims to the Documented Loss Fund, with all available remaining funds in the Net Settlement Fund to be, thereafter, allocated among all Settlement Class Members who submit a valid Claim Form).

b. Cash Payment B – Flat Cash Payment

All Settlement Class Members, including Settlement Class Members who elected Cash Payment A, shall also be allowed to claim Cash Payment B. Cash Payment B is a flat cash payment representing a *pro-rata* share of what remains in the Net Settlement Fund after payment of all valid Documented Loss claims. Each share of Cash Payment B is nominally valued at \$100.00 (subject to *pro-rata* increase/decrease, based upon total Claim submission).

75. **Pro Rata Adjustments on Cash Payments** – Settlement Class Cash Payments will be subject to a *pro rata* increase in the event the amount of Valid Claims is insufficient to exhaust the entire Settlement Fund. Similarly, in the event the amount of Valid Claims exhausts the amount of the Settlement Fund, the amount of the Cash Payments will be reduced *pro rata* accordingly. Any *pro rata* increases or decreases to Cash Payments will be on an equal percentage basis.

76. **Credit Monitoring** – All Settlement Class Members shall be permitted to file a claim for two years of single bureau credit monitoring. Credit monitoring may be claimed in addition to Cash Payments A and B above.

77. **Business Practice Changes** – The Parties agree, and hereby stipulate, that protecting the safety and integrity of Settlement Class Members’ Private Information, responding to the Data Security Incident, underlying the claims in this litigation, and the claims in this litigation were substantial motivating factors for certain remedial efforts and business practices

changes taken by Defendant following the Data Breach, which are estimated to cost Defendant \$_____. Plaintiffs have received assurances that Defendant will continue to take reasonable steps to further secure its systems and environments and that these efforts are intended to have a significant and lasting future impact on the safety and integrity of all Settlement Class Members' Private Information. Defendant has paid and will continue to pay the costs of these security enhancements separate and apart from the cash component paid to Class Members.

VI. Settlement Approval

78. Upon execution of this Agreement by all Parties and Class Counsel, Class Counsel shall file a Motion for Preliminary Approval. The proposed Preliminary Approval Order shall be attached to the Motion for Preliminary Approval.

79. The Motion for Preliminary Approval shall, among other things, request the Court: (1) preliminarily approve the terms of the Settlement as being within the range of fair, adequate, and reasonable, (2) provisionally certify the Settlement Class for settlement purposes only, (3) approve the Notice Program set forth herein and approve the form and content of the Notices of the Settlement, (4) approve the Claim Form and Claim process, (5) approve the procedures for individuals in the Settlement Class to opt-out of or object to the Settlement, (6) stay the Action pending Final Approval of the Settlement and (7) schedule a Final Approval Hearing for a time and date mutually convenient for the Court, Class Counsel, and Defendant's Counsel.

VII. Settlement Administrator

80. The Parties agree that, subject to Court approval, Simpluris shall be the Settlement Administrator. The Parties shall jointly oversee the Settlement Administrator. The Settlement Administrator shall fulfill the requirements set forth in the Preliminary Approval Order and the Agreement and comply with all applicable laws, including, but not limited to, the Due Process

Clause of the United States Constitution.

81. The Settlement Administrator shall administer various aspects of the Settlement as described in the next paragraph and perform such other functions as are specified for the Settlement Administrator elsewhere in this Agreement, including, but not limited to, effectuating the Notice Program, handling the Claims process, administering the Settlement Fund, and distributing the Cash Payments to Settlement Class Members who submit Valid Claims.

82. The Settlement Administrator's duties include to:

a. Complete the Court-approved Notice Program by noticing the Settlement Class by Postcard Notice, sending Long Form Notices and paper Claim Forms on request from individuals in the Settlement Class, reviewing Claim Forms, notifying Claimants of deficient Claim Forms using the Notice of Deficiency, and sending Settlement Class Member Benefits to Settlement Class Members who submit a Valid Claim;

b. Establish and maintain the Settlement Fund in the Escrow Account approved by the Parties;

c. Establish and maintain a post office box to receive opt-out requests from the Settlement Class, objections from Settlement Class Members, and Claim Forms;

d. Establish and maintain the Settlement Website to provide important information about the Settlement and to receive electronic Claim Forms;

e. Establish and maintain an automated toll-free telephone line for the Settlement Class to call with Settlement-related inquiries, and answer frequently asked questions of individuals in the Settlement Class who call with or otherwise communicate such inquiries;

f. Respond to any mailed Settlement Class Member inquiries;

g. Process all opt-out requests from the Settlement Class;

h. Provide weekly reports to Class Counsel and Defendant's Counsel that summarize the number of Claims submitted, Claims approved and rejected, Notices of Deficiency sent, opt-out requests and objections received that week, the total number of opt-out requests and objections received to date, and other pertinent information;

i. In advance of the Final Approval Hearing, prepare a declaration confirming the Notice Program was completed in accordance with the terms of this Agreement and the Preliminary Approval Order, describing how the Notice Program was completed, indicating the number of Claim Forms received, providing the names of each individual in the Settlement Class who timely and properly requested to opt-out from the Settlement Class, indicating the number of objections received, and other information as may be necessary to allow the Parties to seek and obtain Final Approval;

j. Distribute, out of the Settlement Fund, Cash Payments by electronic means or by paper check;

k. Pay Court-approved attorneys' fees and costs, and Service Awards out of the Settlement Fund;

l. Pay Settlement Administration Costs out of the Settlement Fund following approval by Class Counsel and Defendant's Counsel;

m. Pay any required taxes out of the Settlement Fund; and

n. Any other Settlement Administration function at the instruction of Class Counsel and Defendant's Counsel, including, but not limited to, verifying that the Settlement Fund has been properly administered and that the Cash Payments have been properly distributed.

83. The Notice Program and Notices will be reviewed and approved by the Settlement Administrator but may be revised as agreed upon by the Parties prior to submission to the Court

for approval. Immaterial revisions to the Notices may also be made prior to dissemination.

VIII. Notice to the Settlement Class

84. Defendant will make available to Class Counsel and the Settlement Administrator the Class List no later than seven days after entry of the Preliminary Approval Order.

85. Within 30 days following the entry of the Preliminary Approval Order, the Settlement Administrator shall commence the Notice Program provided herein, using the forms of Notice approved by the Court. Notice shall be provided by email for all Settlement Class Members for whom Defendant possesses an email address. Postcard Notice shall be disseminated via U.S. Mail to the Settlement Class's mailing addresses, to the extent known, for all other Settlement Class Members. Notice shall also be published on the Settlement Website.

86. The Notice shall include, among other information: a description of the material terms of the Settlement; how to submit a Claim Form, the Claim Form Deadline, the last day of the Opt-Out Period for individuals in the Settlement Class to opt-out of the Settlement Class, the last day of the Objection Period for Settlement Class Members to object to the Settlement and/or Motion for Attorneys' Fees, Costs and Service Award, the Final Approval Hearing date and the Settlement Website address at which Settlement Class Members may access this Agreement and other related documents and information. Class Counsel and Defendant's Counsel shall insert the correct dates and deadlines in the Notice before the Notice Program commences, based upon those dates and deadlines set by the Court in the Preliminary Approval Order. If the date or time for the Final Approval Hearing changes, the Settlement Administrator shall update the Settlement Website to reflect the new date. No additional notice to the Settlement Class is required if the date or time for the Final Approval Hearing changes.

87. The Settlement Administrator shall establish the Settlement Website no later than

the day before Notice is first initiated. The Settlement Administrator shall ensure the Settlement Website makes available the Court-approved online Claims Form that can be submitted directly on the Settlement Website or in printable version that can be sent by U.S. Mail to the Settlement Administrator.

88. **Opt-Outs** – The Long Form Notice also shall include a procedure for individuals in the Settlement Class to opt-out of the Settlement; and the Postcard Notice shall direct individuals in the Settlement Class to review the Long Form Notice to obtain the opt-out instructions. Individuals in the Settlement Class may opt-out of the Settlement Class at any time during the Opt-Out Period by mailing a request to opt-out to the Settlement Administrator postmarked no later than the last day of the Opt-Out Period. The opt-out request must be personally signed by the Settlement Class Member and contain the name, address, telephone number, and email address (if any), and include a statement indicating a request to be excluded from the Settlement Class. Any individual in the Settlement Class who does not timely and validly request to opt out shall be bound by the terms of this Agreement even if he or she does not submit a Valid Claim.

89. **Objections** – The Long Form Notice also shall include a procedure for the Settlement Class to object to the Settlement and/or Motion for Attorneys’ Fees, Costs, and Service Award, and the Postcard Notice shall direct the Settlement Class to review the Long Form Notice to obtain the objection instructions. Objections must be mailed to the Clerk of the Court, Class Counsel, Defendant’s Counsel, and the Settlement Administrator. For an objection to be considered by the Court, the objection must be submitted no later than the last day of the Objection Period, as specified in the Notice. If submitted by mail, an objection shall be deemed to have been submitted when posted if received with a postmark date indicated on the envelope if mailed first-class postage prepaid and addressed in accordance with the instructions. If submitted by private

courier (e.g., Federal Express), an objection shall be deemed to have been submitted on the shipping date reflected on the shipping label.

90. For an objection to be considered by the Court, the objection must also set forth:
- a. the name of this Litigation (*Grace Oliveri, et al., v. Mount Kisco Surgery Center LLC d/b/a The Ambulatory Surgery Center of Westchester* Case No. 66660/2024);
 - b. the objector's full name, mailing address, telephone number, and email address (if any);
 - c. the specific reasons for the objection, accompanied by any legal support for the objection known to the objector or objector's counsel;
 - d. the number of times the objector has objected to a class action settlement within the 5 years preceding the date that the objector files the objection, the caption of each case in which the objector has made such objection, and a copy of any orders related to or ruling upon the objector's prior objections that were issued by the trial and appellate courts in each listed case;
 - e. the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement and/or Motion for Attorneys' Fees, Costs, and Service Award;
 - f. the number of times in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the 5 years preceding the date of the filed objection, the caption of each case in which counsel or the firm has made such objection and a copy of any orders related to or ruling upon counsel's or the counsel's law firm's prior objections that were issued by the trial and appellate courts in each listed case in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the preceding 5 years;
 - g. any and all agreements that relate to the objection or the process of

objecting—whether written or oral—between objector or objector’s counsel and any other person or entity;

h. the identity of all counsel (if any) representing the objector and whether they will appear and address the Court at the Final Approval Hearing;

i. a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection (if any);

j. a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and

k. the objector’s signature (an attorney’s signature is not sufficient).

91. Class Counsel and/or Defendant’s Counsel may conduct limited discovery on any objector or objector’s counsel.

92. The Settlement Administrator shall perform reasonable address traces for those Postcard Notices that are returned as undeliverable. By way of example, a reasonable tracing procedure would be to run addresses of returned postcards through the Lexis/Nexis database that can be utilized for such purpose. Within five days after the Settlement Administrator’s receipt of any Postcard Notices, the Settlement Administrator shall re-mail the Post Card Notice using any forwarding address provided by the USPS. The Settlement Administrator shall have no obligation to make further attempts to locate or send Summary Notice to Proposed Settlement Class Members whose Summary Notices is returned by the USPS a second time. In order to provide additional time for Settlement Class Members who are re-mailed a Postcard Notice pursuant to this Paragraph, the Parties have extended the Claims Deadline, Claims Period, Opt-Out Period, and Objection Deadline for all Proposed Settlement Class Members an additional fifteen (15) days from the original deadlines.

IX. Claim Form Process and Disbursement of Cash Payments

93. The Notice will explain to the Settlement Class that they may be entitled to a Settlement Class Member Benefit and how to submit a Claim Form.

94. Claim Forms may be submitted online through the Settlement Website or through U.S. Mail by sending them to the Settlement Administrator at the address designated on the Claim Form.

95. The Settlement Administrator shall collect, review, and address each Claim Form received to determine whether the Claim Form meets the requirements set forth in this Settlement and is thus a Valid Claim. The Settlement Administrator shall examine the Claim Form before designating the Claim as a Valid Claim to determine that the information on the Claim Form is reasonably complete. The Settlement Administrator shall have the sole authority to determine whether a Claim by any Claimant is a Valid Claim.

96. The Settlement Administrator shall use all reasonable efforts and means to identify and reject duplicate claims. No Settlement Class Member may submit more than one Claim Form. The Settlement Administrator shall identify any Claim Forms that appear to seek relief on behalf of the same Settlement Class Member. The Settlement Administrator shall use its best efforts to determine whether there is any duplication of claims, and if there is, contact the Settlement Class Member in an effort to determine which Claim Form is the appropriate one for consideration.

97. The Settlement Administrator shall exercise, in its discretion, all usual and customary steps to prevent fraud and abuse and take any reasonable steps to prevent fraud and abuse in the Claim process. The Settlement Administrator may, in its discretion, deny in whole or in part any Claim Form to prevent actual or possible fraud or abuse. By agreement, the Parties can instruct the Settlement Administrator to take whatever steps it deems appropriate if the Settlement

Administrator identifies actual or possible fraud or abuse relating to the submission of claims, including, but not limited to, denying in whole or in part any Claim to prevent actual or possible fraud or abuse. If any fraud is detected or reasonably suspected, the Settlement Administrator and Parties may require information from Claimants or deny Claims, subject to the supervision of the Parties and ultimate oversight by the Court.

98. Claim Forms that do not meet the terms and conditions of this Settlement shall be promptly rejected by the Settlement Administrator and the Settlement Administrator shall advise the Claimant or Settlement Class Member of the reason(s) why the Claim Form was rejected. However, if the Claim Form is rejected for containing incomplete or inaccurate information, and/or omitting required information, the Settlement Administrator may send a Notice of Deficiency explaining what information is missing or inaccurate and needed to validate the Claim and have it submitted for consideration. The Settlement Administrator shall notify the Claimant using the contact information provided in the Claim Form. The additional information and/or documentation can include, for example, answers to questions regarding the validity of the Claimant's physical or e-signature. A Claimant shall have until the Claim Form Deadline, or 15 days from the date the Notice of Deficiency is sent to the Claimant via mail and postmarked or via email, whichever is later, to reply to the Notice of Deficiency and provide the required information. If the Claimant timely and adequately provides the requested information and/or documentation, the Claim shall be deemed a Valid Claim and processed by the Settlement Administrator. If the Claimant does not timely and completely provide the requested information and/or documentation, the Settlement Administrator shall reduce or deny the Claim unless Defendant and Class Counsel otherwise agree.

99. Where a good faith basis exists, the Settlement Administrator may reduce or reject a Claim for, among other reasons, the following:

- a. Failure to fully complete and/or sign the Claim Form;
- b. Illegible Claim Form;
- c. The Claim Form is fraudulent;
- d. The Claim Form is duplicative of another Claim Form;
- e. The Claimant is not a Settlement Class Member;
- f. The Claimant submitted a timely and valid request to opt out of the Settlement Class.
- g. The person submitting the Claim Form requests that payment be made to a person or entity other than the Claimant for whom the Claim Form is submitted;
- h. Failure to submit a Claim Form by the Claim Form Deadline; and/or
- i. The Claim Form otherwise does not comply with the requirements of this Settlement.

100. The Settlement Administrator's reduction or denial of a Claim is final, subject to the following dispute resolution procedures:

- a. The Settlement Administrator shall have 10 days from the Claim Form Deadline to approve or reject Claims based on findings of fraud or duplication.
- b. A request for additional information by sending a Notice of Deficiency shall not be considered a denial for purposes of this Paragraph.
- c. If a Claim is rejected for fraud or duplication, the Settlement Administrator shall notify the Claimant using the contact information provided in the Claim Form. Class Counsel and Defendant's Counsel shall be provided with copies of all such notifications to Claimants.
- d. The Settlement Administrator's determination as to whether to approve, deny, or reduce a Claim shall be final and binding.

101. The Settlement Administrator shall provide all information gathered in investigating Claims, including, but not limited to, copies of all correspondence and email and all notes of the Settlement Administrator, the decision reached, and all reasons supporting the decision, if requested by Class Counsel or Defendant's Counsel. Additionally, Class Counsel and Defendant's Counsel shall have the right to inspect the Claim Forms and supporting documentation received by the Settlement Administrator at any time upon reasonable notice.

102. No person or entity shall have any claim against Defendant, Defendant's Counsel, Plaintiffs, the Settlement Class, Class Counsel, and/or the Settlement Administrator based on any eligibility determinations, distributions, or awards made in accordance with this Settlement.

103. No later than 30 days after the Effective Date, the Settlement Administrator shall distribute the Settlement Class Member Benefits.

104. Cash Payments to Settlement Class Members will be made electronically or by paper check. Settlement Class Members with Valid Claims shall receive an email instructing them to select the type of payment they wish to receive. Upon issuance of the email, Settlement Class Members shall have 30 days to select their method of payment. Settlement Class Members who do not open their email or provide incorrect or incomplete electronic payment information shall receive a paper check in the mail. Settlement Class Members receiving payment by check shall have 90 days to negotiate the check.

X. Final Approval Order and Final Judgment

105. The Parties shall request that the Court schedule the Final Approval Hearing for a date that is no earlier than one hundred twenty (120) days after the entry of the Preliminary Approval Order.

106. Plaintiffs shall file the Motion for Final Approval of the Settlement no later than 15

days before the Final Approval Hearing. At the Final Approval Hearing, the Court may choose to hear argument on Plaintiffs' Motion for Final Approval of the Settlement and Motion for Attorneys' Fees, Costs, and Service Award. In the Court's discretion, the Court also may hear argument at the Final Approval Hearing from any Settlement Class Members (or their counsel) who object to the Settlement and/or to the Motion for Attorneys' Fees, Costs, and Service Award, provided the objectors submitted timely objections that meet all of the requirements listed in the Agreement.

107. At or following the Final Approval Hearing, the Court will determine whether to enter the Final Approval Order and final judgment thereon, and whether to grant the Motion for Attorneys' Fees, Costs, and Service Award. Such proposed Final Approval Order shall, among other things:

- a. Determine that the Settlement is fair, adequate and reasonable;
- b. Finally certify the Settlement Class for settlement purposes only;
- c. Determine that the Notice Program satisfies Due Process requirements;
- d. Bar and enjoin all Releasing Parties from asserting any of the Released Claims at any time and in any jurisdiction, including during any appeal from the Final Approval Order; bar and enjoin all Releasing Parties from pursuing any Released Claims against Released Parties at any time and in any jurisdiction, including during any appeal from the Final Approval Order; and retain jurisdiction over the enforcement of the Court's injunctions;
- e. Release Defendant and the Released Parties from the Released Claims; and
- f. Reserve the Court's continuing and exclusive jurisdiction over the Parties to this Agreement, including Defendant, Plaintiffs, all Settlement Class Members, and all objectors, to administer, supervise, construe, and enforce this Agreement in accordance with its

terms.

XI. Service Award, Attorneys' Fees and Costs

108. **Service Award** – In recognition of the time and effort the Class Representative expended in pursuing this Action and in fulfilling his obligations and responsibilities as Class Representative, and of the relief conferred on all Settlement Class Members by the Settlement, Class Counsel shall request a Service Award for the Class Representative in the amount not to exceed \$2,500. If approved, the Service Award shall be paid by the Settlement Administrator out of the Settlement Fund within ten days of the Effective Date. The Service Award payment to the Class Representative shall be separate and apart from his entitlement to benefits from the Settlement Fund.

109. **Attorneys' Fees and Costs** – Not later than 15 days prior to the Objection and Opt-Out Deadlines, Class Counsel shall apply to the Court for an award of attorneys' fees of up to one-third (approximately 33.33%) of the Settlement Fund, plus reimbursement of costs. The attorneys' fees and cost awards approved by the Court shall be paid by the Settlement Administrator out of the Settlement Fund by wire transfer to an account designated by Class Counsel, within ten days of the Effective Date.

110. This Settlement is not contingent on approval of the Motion for Attorneys' Fees, Costs, and Service Award, and if the Court denies the motion or grants amounts other than what was requested, the remaining provisions of the Agreement shall remain in force. The provisions for attorneys' fees and costs and the Service Award were not negotiated until after all material terms of the Settlement.

XII. Disposition of Residual Funds

111. The Settlement is designed to exhaust the Settlement Fund. In the event there are

funds remaining from uncashed checks in the Settlement Fund 20 days following the 90-day check negotiation period, all remaining funds shall be distributed to an appropriate mutually agreeable *cy pres* recipient to be approved by the Court.

XIII. Releases

112. As of the Effective Date, the Releasing Parties shall automatically be deemed to have fully, finally, and irrevocably released and forever discharged all Released Claims, including Unknown Claims, against each of the Released Parties and agree to refrain and to the fullest extent permitted by law shall be permanently barred and enjoined from instituting, directing or maintaining any lawsuit, contested matter, adversary proceeding, or miscellaneous proceeding against each any of the Released Parties that relates to the Data Security Incident or otherwise arises out of the same facts and circumstances set forth in the class action complaint in this Action.

113. Plaintiffs and Settlement Class Members covenant and agree they will not take any step whatsoever to assert, sue on, continue, pursue, maintain, prosecute, or enforce any Released Claim, directly or indirectly, whether on behalf of themselves or others, against any of the Released Parties in any jurisdiction.

114. Individuals in the Settlement Class who opt-out of the Settlement prior to the Opt-Out Deadline do not release their claims and will not obtain any benefits under the Settlement. With respect to the Released Claims, Plaintiffs and Settlement Class Members, expressly understand and acknowledge it is possible that unknown economic losses or claims exist or that present losses may have been underestimated in amount or severity. Plaintiffs and Settlement Class Members explicitly took that into account in entering into this Agreement, and a portion of the consideration and the mutual covenants contained herein, having been bargained for between

Plaintiffs and Defendant with the knowledge of the possibility of such unknown claims for economic loss, were given in exchange for a full accord, satisfaction, and discharge of all such claims.

115. Plaintiffs or Settlement Class Members may hereafter discover facts other than or different from those that he or she knows or believes to be true with respect to the subject matter of the claims released herein, or the law applicable to such claims may change. Nonetheless, each of those individuals expressly agrees that, as of the Effective Date, he or she shall have automatically and irrevocably waived and fully, finally, and forever settled and released any known or unknown, suspected or unsuspected, asserted or unasserted, liquidated or unliquidated, contingent or non-contingent claims with respect to all of the matters described in or subsumed by this Agreement. Further, each of those individuals agrees and acknowledges that he or she shall be bound by this Agreement, including by the release herein and that all of their claims in the Action shall be dismissed with prejudice and released, whether or not such claims are concealed or hidden; without regard to subsequent discovery of different or additional facts and subsequent changes in the law; and even if he or she never receives actual notice of the Settlement and/or never receives a Cash Payment from the Settlement.

116. Upon the Effective Date: (a) this Settlement shall be the exclusive remedy for any and all Released Claims of Plaintiffs and Settlement Class Members and (b) Plaintiffs and Settlement Class Members stipulate to be and shall be permanently barred and enjoined by Court order from initiating, asserting, or prosecuting any Released Claim against the Released Parties, whether on behalf of Plaintiffs, any Settlement Class Member or others, in any jurisdiction, including in any federal, state, or local court or tribunal.

XIV. Termination of Settlement

117. This Agreement shall be subject to and is expressly conditioned on the occurrence of all of the following events:

a. Court approval of the Settlement consideration set forth in Section V and the Releases set forth in Section XIII of this Agreement;

b. The Court has entered the Preliminary Approval Order substantially in the form attached to the Motion for Preliminary Approval;

c. The Court has entered the Final Approval Order substantially in the form attached to the Motion for Final Approval, and all objections, if any, are overruled, and all appeals taken from the Final Approval Order are resolved in favor of Final Approval; and

d. The Effective Date has occurred.

118. If any of the conditions specified in the preceding paragraph are not met, then this Agreement shall be cancelled and terminated.

119. Defendant shall have the option to terminate this Agreement if more than 1% of the Settlement Class opt-out of the Settlement. Defendant shall notify Class Counsel and the Court of its intent to terminate this Agreement pursuant to this paragraph within 10 days after the end of the Opt-Out Period and receipt of the number of individuals who opt out of the settlement from the Settlement Administrator, or the option to terminate shall be considered waived.

120. In the event this Agreement is terminated or fails to become effective, then the Parties shall return to the *status quo ante* in the Action as if the Parties had not entered into this Agreement, and the Parties shall jointly file a status report in the Court seeking to reopen the Action. In such event, the terms and provisions of this Agreement shall have no further force and effect with respect to the Parties and shall not be used in this case or in any other action or proceeding for any other purpose, and any order entered by this Court in accordance with the terms

of this Agreement shall be treated as vacated, *nunc pro tunc*.

121. In the event this Agreement is terminated or fails to become effective, all funds in the Settlement Fund shall be promptly returned to Defendant. However, Defendant shall have no right to seek from Plaintiffs, Class Counsel, or the Settlement Administrator the Settlement Administration Costs paid by Defendant. The Settlement Administrator shall return all remaining amounts in the Settlement Fund to Defendant within 21 days of termination.

XV. Effect of Termination

122. The grounds upon which this Agreement may be terminated are set forth in Section XIV. In the event of a termination, this Agreement shall be considered null and void; all of Plaintiffs', Class Counsel's, Defendant's, and Defendant's Counsel's obligations under the Settlement shall cease to be of any force and effect; and the Parties shall return to the status quo ante in the Action as if the Parties had not entered into this Agreement. In addition, in the event of such a termination, all of the Parties' respective pre-Settlement rights, claims, and defenses will be retained and preserved.

123. In the event the Settlement is terminated in accordance with the provisions of this Agreement, any discussions, offers or negotiations associated with this Settlement shall not be discoverable or offered into evidence or used in the Action or any other action or proceeding for any purpose. In such event, all Parties to the Action shall stand in the same position as if this Agreement had not been negotiated, made, or filed with the Court.

XVI. No Admission of Liability

124. This Agreement reflects the Parties' compromise and settlement of disputed claims. This Agreement shall not be construed as or deemed to be evidence of an admission or concession of any point of fact or law. Defendant has denied and continues to deny each of the claims and

contentions alleged in the Complaint. Defendant specifically denies that a class could or should be certified in the Action for litigation purposes. Defendant does not admit any liability or wrongdoing of any kind, by this Agreement or otherwise. Defendant has agreed to enter into this Agreement to avoid the further expense, inconvenience, and distraction of burdensome and protracted litigation, and to be completely free of any further claims that were asserted or could possibly have been asserted in the Action.

125. Class Counsel believe the claims asserted in the Action have merit, and they have examined and considered the benefits to be obtained under the proposed Settlement set forth in this Agreement, the risks associated with the continued prosecution of this complex, costly, and time-consuming litigation, and the likelihood of success on the merits of the Action. Class Counsel fully investigated the facts and law relevant to the merits of the claims, and conducted an independent investigation of the alleged claims. Class Counsel concluded that the proposed Settlement set forth in this Agreement is fair, adequate, reasonable, and in the best interests of the Settlement Class.

126. This Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties in connection with the negotiations of this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made, or an acknowledgment or admission by any party of any fault, liability, or wrongdoing of any kind whatsoever.

127. Neither the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Settlement: (a) is or may be deemed to be, or may be used as, an admission of, or evidence of, the validity of any claim made by the Plaintiffs or the Settlement Class, or of any wrongdoing or liability of the Released Parties or (b) is or may be deemed to be, or may be

used as, an admission of, or evidence of, any fault or omission of any of the Released Parties, in the Action or in any proceeding in any court, administrative agency, or other tribunal.

128. In addition to any other defenses Defendant may have at law, in equity, or otherwise, to the extent permitted by law, this Agreement may be pleaded as a full and complete defense to and may be used as the basis for an injunction against any action, suit, or other proceeding that may be instituted, prosecuted, or attempted in breach of this Agreement or the Releases contained herein.

XVII. Miscellaneous Provisions

129. Gender and Plurals. As used in this Agreement, the masculine, feminine or neuter gender, and the singular or plural number, shall each be deemed to include the others whenever the context so indicates.

130. Binding Effect. This Agreement shall be binding upon, and inure to and for the benefit of, the successors and assigns of the Releasing Parties and the Released Parties.

131. Cooperation of Parties. The Parties to this Agreement agree to cooperate in good faith to prepare and execute all documents, seek Court approval, uphold Court approval, and do all things reasonably necessary to complete and effectuate the Settlement described in this Agreement.

132. Obligation to Meet and Confer. Before filing any motion in the Court raising a dispute arising out of or related to this Agreement, the Parties shall consult with each other and certify to the Court that they have met and conferred in an attempt to resolve the dispute.

133. Integration and No Reliance. This Agreement constitutes a single, integrated written contract expressing the entire agreement of the Parties relative to the subject matter hereof. This Agreement is executed without reliance on any covenant, agreement, representation, or

warranty by any Party or any Party's representative other than those expressly set forth in this Agreement. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any Party hereto, except as provided for herein.

134. No Conflict Intended. Any inconsistency between the headings used in this Agreement and the text of the paragraphs of this Agreement shall be resolved in favor of the text.

135. Governing Law. Except as otherwise provided herein, the Agreement shall be construed in accordance with, and be governed by, the laws of the state of Maryland, without regard to the principles thereof regarding choice of law.

136. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all Parties do not sign the same counterparts. Original signatures are not required.

137. Jurisdiction. The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice Program and the Settlement Administrator. As part of the agreement to render services in connection with this Settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose. The Court shall retain jurisdiction over the enforcement of the Court's injunction barring and enjoining all Releasing Parties from asserting any of the Released Claims and from pursuing any Released Claims against the Released Parties at any time and in any jurisdiction, including during any appeal from the Final Approval Order.

138. Notices. All notices provided for herein, shall be sent by email with a hard copy sent by first class mail to:

If to Plaintiffs or Class Counsel:

David K. Lietz
Milberg Coleman Bryson Phillips Grossman, PLLC
5335 Wisconsin Avenue NW, Suite 440
Washington, D.C. 20015-2052
dlietz@milberg.com

Scott Edward Cole
Cole & Van Note
555 12th Street, Suite 2100
Oakland, CA 94607
sec@colevannote.com

Leigh Montgomery
Ellzey Kherkher Sanford Montgomery, LLP
4200 Montrose Blvd., Suite 200
Houston, TX 77006
lmontgomery@eksm.com

If to Defendant or Defendant's Counsel:

Richard M. Haggerty
Mullen Coughlin LLC
426 W. Lancaster Avenue, Suite 200
Devon, PA 19333
rhaggerty@mullen.law

The notice recipients and addresses designated above may be changed by written notice. Upon the request of any of the Parties, the Parties agree to promptly provide each other with copies of objections, requests for exclusion, or other filings received as a result of the Notice Program.

139. Modification and Amendment. This Agreement may not be amended or modified, except by a written instrument signed by Class Counsel and Defendant's Counsel and, if the Settlement has been approved preliminarily by the Court, approved by the Court.

140. No Waiver. The waiver by any Party of any breach of this Agreement by another Party shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent,

or contemporaneous, of this Agreement.

141. Authority. Class Counsel (for Plaintiffs and the Settlement Class), and Defendant's Counsel (for Defendant), represent and warrant that the persons signing this Agreement on their behalf have full power and authority to bind every person, partnership, corporation, or entity included within the definitions of Plaintiffs and Defendant to all terms of this Agreement. Any person executing this Agreement in a representative capacity represents and warrants that he or she is fully authorized to do so and to bind the Party on whose behalf he or she signs this Agreement to all of the terms and provisions of this Agreement.

142. Agreement Mutually Prepared. Neither Plaintiffs nor Defendant shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

143. Independent Investigation and Decision to Settle. The Parties understand and acknowledge they: (a) have performed an independent investigation of the allegations of fact and law made in connection with this Action and (b) that even if they may hereafter 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 the Action as reflected in this Agreement, that will not affect or in any respect limit the binding nature of this Agreement. All Parties recognize and acknowledge they reviewed and analyzed data that they used to make certain determinations, arguments, and settlement positions. The Parties agree this Settlement is fair, reasonable, and adequate, and will not attempt to renegotiate or otherwise void or invalidate or terminate the Settlement irrespective of what any unexamined data later shows. It is the Parties' intention to resolve their disputes in connection with this Action pursuant to the terms of this Agreement now and thus, in furtherance of their intentions,

the Agreement shall remain in full force and effect notwithstanding the discovery of any additional facts or law, or changes in law, and this Agreement shall not be subject to rescission or modification by reason of any changes or differences in facts or law, subsequently occurring or otherwise.

144. Receipt of Advice of Counsel. Each Party acknowledges, agrees, and specifically warrants that he, she, or it has fully read this Agreement and the Releases contained herein, received independent legal advice with respect to the advisability of entering into this Agreement and the Releases, and the legal effects of this Agreement and the Releases, and fully understands the effect of this Agreement and the Releases.

145. Exhibits. The exhibits to this Agreement are expressly incorporated by reference and made part of the terms and conditions set forth herein.

146. Representations/Warranties Regarding Other Potential Plaintiffs or Legal Claims. Class Counsel represents and warrants that they do not represent any clients, or have knowledge of any potential clients, with claims or potential claims against the Released Parties aside from the Released Claims. Plaintiffs and Class Counsel each represent and warrant that neither of them is aware of any potential plaintiffs, or any attorney other than Class Counsel, who intends to make demands or bring litigation against the Released Parties. Plaintiffs and Class Counsel each further represent and warrant that neither of them has been notified or otherwise informed of any such intention or consideration thereof. Plaintiffs and Class Counsel each further represent and warrant that neither of them has been referred to any other attorney or any other individual alleging to have, asserting, pursuing, or seeking to pursue any claims against the Released Parties. Class Counsel represents and warrants that they have removed all advertisements, including social media posts, soliciting potential clients to pursue claims against Defendant or any of the Released Parties. Class

Counsel further represents and warrants that they have removed any other publications, including social media posts, announcing, publicizing, or describing the Released Claims, to the extent published by Class Counsel.

147. Bar to Future Suits. Upon entry of the Final Approval Order, the Releasing Parties shall be enjoined from prosecuting any Released Claim in any proceeding against the Released Parties or based on any actions taken by any of the Released Parties that are authorized or required by this Agreement or by the Final Approval Order. It is further agreed that the Settlement may be pleaded as a complete defense to any proceeding subject to this paragraph.

Signature Page to Follow


PLAINTIFFS


Grace Oliveri (Nov 14, 2025 12:05:58 EST)

GRACE OLIVERI


Tracy Sue Policicchio (Oct 30, 2025 17:19:11 EDT)

TRACY POLICICCHIO

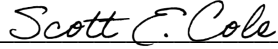


CANDACE BASSI (as guardian for E.B.)

CLASS COUNSEL



DAVID LIETZ
MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN, PLLC



SCOTT EDWARD COLE
COLE & VAN NOTE



LEIGH MONTGOMERY
EKSM, LLP

DEFENDANT

Audie Cruz
MOUNT KISCO SURGERY CENTER LLC
d/b/a THE AMBULATORY SURGERY
CENTER OF WESTCHESTER
By: _____
Its Business Office Manager

DEFENDANT'S COUNSEL

Richard M. Haggerty
RICHARD M. HAGGERTY
MULLEN COUGHLIN LLC

EXHIBIT 1

TO: «Email Address»
FROM: “Mount Kisco Data Security Incident Settlement” «info@[SettlementWebsite].com»
SUBJECT: Mount Kisco Data Security Incident Settlement – You are Eligible to File a Claim

LEGAL NOTICE

Grace Oliveri v. The Ambulatory Surgery Center of Westchester
Case No. 66660/2024
Supreme Court of New York, Westchester County

**IF YOUR PRIVATE INFORMATION WAS POTENTIALLY COMPROMISED IN THE NOVEMBER
2023 MOUNT KISCO DATA SECURITY INCIDENT,
A PROPOSED CLASS ACTION SETTLEMENT MAY AFFECT YOUR RIGHTS,
AND ENTITLE YOU TO A CASH PAYMENT.**

*A court has authorized this notice. This is not a solicitation from a lawyer.
You are not being sued.
Please read this Notice carefully and completely.*

Dear «First» «Last»:

A Settlement has been reached with Mount Kisco Surgery Center LLC, d/b/a The Ambulatory Surgery Center of Westchester (“Mount Kisco”) in a class action lawsuit about the November 2023 cyberattack on Mount Kisco (the “Data Security Incident”). Files containing private information were potentially accessed.

Mount Kisco denies that it did anything wrong, and the Court has not decided who is right. The parties have agreed to settle the lawsuit (“Settlement”) to avoid the risks, disruption, and uncertainties of continued litigation.

A copy of the Settlement is available at [www.\[SettlementWebsite\].com](http://www.[SettlementWebsite].com).

Who is included in the Settlement? The Court has defined the class as: “All persons in the United States whose Private Information was potentially compromised as a result of the Data Security Incident.”

The Court has appointed experienced attorneys, called Class Counsel, to represent the Class.

What are the Settlement benefits? All Class Members are eligible to enroll in two years of Credit Monitoring.

Additionally, you may claim one of the following cash payments:

Cash Payment A – Documented Losses. If you incurred actual, documented out-of-pocket losses due to the Data Security Incident, you can get back up to **\$5,000.00**. The losses must have occurred between November 3, 2023, and [Claims Deadline].

You need to send proof, like bank statements or receipts, to show how much you spent or lost. You can also send notes or papers you made yourself to explain or support other proof, but those notes or papers alone are not enough to make a valid claim. Your proof or notes should show that your expenses were because of the Data Incident.

You cannot claim a payment for expenses that have already been reimbursed by a third party.

Cash Payment B – Flat Cash Payment. Instead of the benefits in Option A, you may claim a one-time cash payment. This payment is expected to be **\$100.00**, but may be larger or smaller depending on the total claims filed. You do not have to provide any proof or explanation to claim this payment.

Settlement Class Cash Payments will be subject to a *pro rata* increase in the event the amount of Valid Claims is insufficient to exhaust the entire Settlement Fund.

How do I receive a benefit? Visit [www.\[SettlementWebsite\].com](http://www.[SettlementWebsite].com) to submit your claim.

To receive a paper copy and submit by US Mail, call 1-**XXX-XXX-XXXX**, or email your request to [info@\[SettlementWebsite\].com](mailto:info@[SettlementWebsite].com). **Claims must be submitted online, mailed, or emailed by [Claims Deadline].**

What if I don't want to participate in the Settlement? If you do not want to be legally bound by the Settlement, you must exclude yourself by **[Opt-Out Deadline]** or you will not be able to sue Mount Kisco for the claims made in *this* lawsuit. If you exclude yourself, you cannot get benefits from this Settlement. If you want to object to the Settlement, you may file an objection by **[Objection Deadline]**. The Settlement Agreement, available on the Settlement website at [www.\[SettlementWebsite\].com](http://www.[SettlementWebsite].com), explains how to exclude yourself or object.

When will the Court decide whether to approve the Settlement? The Court will hold a hearing in this case on **[FA Hearing Date]** at the **[Court Address]**, to consider whether to approve the Settlement. The Court will also consider Class Counsel's request for attorneys' fees and costs of up to \$175,815.75, and \$2,500.00 for Plaintiffs. You may attend the hearing at your own cost, but you do not have to.

This notice email is only a summary. For more information, call 1-**XXX-XXX-XXXX** or click here: [www.\[SettlementWebsite\].com](http://www.[SettlementWebsite].com).

User ID: «User ID»

EXHIBIT 2

Mount Kisco Data Security Incident Settlement
c/o Settlement Administrator
P.O. Box _____
Santa Ana, CA 92799-9958

Grace Oliveri v. The Ambulatory Surgery
Center of Westchester
Case No. 66660/2024

IF YOUR PRIVATE INFORMATION WAS
POTENTIALLY COMPROMISED IN THE
NOVEMBER 2023 MOUNT KISCO DATA
SECURITY INCIDENT, A PROPOSED CLASS
ACTION SETTLEMENT MAY AFFECT YOUR
RIGHTS AND ENTITLE YOU TO BENEFITS
AND A CASH PAYMENT.

A court has authorized this Notice.
This is not a solicitation from a lawyer.
You are not being sued.

THIS NOTICE IS ONLY A SUMMARY.
VISIT [WWW.\[SETTLEMENTWEBSITE\].COM](http://WWW.[SETTLEMENTWEBSITE].COM)
OR SCAN THIS QR CODE
FOR COMPLETE INFORMATION.



First-Class
Mail
US Postage
Paid
Permit # __

«Barcode»

Postal Service: Please do not mark barcode

Claim #: XXX- «LoginID» - «MailRec»

«First1» «Last1»

«Addr1» «Addr2»

«City», «St» «Zip»

«Country»

Why am I receiving this notice?

A Settlement has been reached with Mount Kisco Surgery Center LLC, d/b/a The Ambulatory Surgery Center of Westchester (“Mount Kisco”) in a class action lawsuit (“Settlement”). The case is about the November 2023 cyberattack on Mount Kisco (the “Data Security Incident”). Files containing private information were potentially accessed. Mount Kisco denies that it did anything wrong, and the Court has not decided who is right. The parties have agreed to settle the lawsuit to avoid the risks, disruption, and uncertainties of continued litigation. A copy of the Settlement is available online.

Who is included in the Settlement?

The Court has defined the class as: “All persons in the United States whose Private Information was potentially compromised as a result of the Data Security Incident.”

The Court has appointed experienced attorneys, called “Class Counsel,” to represent the Class.

What are the Settlement benefits?

You can claim two years of **Credit Monitoring** and one of two **Cash Payment** options.

Cash Payment A – Documented Losses. If you incurred actual, documented losses due to the Data Security Incident, you can get back up to **\$5,000**. The losses must have occurred between November 3, 2023, and **[Claims Deadline]**.

Cash Payment B – Flat Cash Payment. Instead of the benefits in Option A, you may claim a one-time cash payment.

This payment is expected to be **\$100**, but may be larger or smaller depending on the total claims filed. Full details and instructions are available online.

How do I receive a benefit?

If you are claiming documented losses for identity theft/fraud, file all of your claims online. Otherwise, you may fill out the Claim Form below. Tear at perforation, and return by U.S. Mail. Postage is already paid. For a full paper Claim Form call **1-XXX-XXX-XXXX**. **Claims must be submitted online or postmarked by [Claims Deadline]**.

What if I don't want to participate in the Settlement?

If you do not want to be part of the Settlement, you must exclude yourself by **[Opt-Out Deadline]** or you will not be able to sue Mount Kisco for the claims made in *this* lawsuit. If you exclude yourself, you cannot get benefits from this Settlement. If you want to object to the Settlement, you may file an objection by **[Objection Deadline]**. The Settlement Agreement, available online, explains how to exclude yourself or object.

When will the Court approve the Settlement?

The Court will hold a hearing in this case on **[FA Hearing Date]** at the **[Court Address]**, to consider whether to approve the Settlement. The Court will also consider Class Counsel's request for attorneys' fees and costs of up to \$175,815.75, and \$2,500 for each of the Plaintiffs. You may attend the hearing at your own cost, but you do not have to.



BUSINESS REPLY MAIL

FIRST-CLASS MAIL PERMIT NO 47 COSTA MESA CA

POSTAGE WILL BE PAID BY ADDRESSEE

NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES



Mount Kisco Data Security Incident Settlement
c/o Settlement Administrator
P.O. Box [PO Box Number]
Santa Ana, CA 92799-9958



Mount Kisco Data Security Incident Settlement

«First1» «Last1»
«Addr1» «Addr2»
«City», «St» «Zip»

Complete this Claim Form, tear at perforation, and return by U.S.

Mail no later than [Claims Deadline].

Login ID: «LoginID»

PIN: «PIN»

Only one Claim Form per Class Member.

INSTRUCTIONS: Use this card to submit your claim for two years of Credit Monitoring and Cash Payment B—Flat Cash Payment.

To claim cash payments for **Cash Payment A – Documented Losses**, visit the settlement website at [www.\[SettlementWebsite\].com](http://www.[SettlementWebsite].com). To request a full paper Claim Form, call 1-XXX-XXX-XXXX.

Check this box to enroll in two years of Credit Monitoring.

Check this box to claim a one-time \$100.00 Cash Payment B—Flat Cash Payment.

How would you like to be paid:

Check one: PayPal Venmo Zelle Virtual Prepaid Card Check (sent to above address)

For digital payment options, please PRINT your email address

LEGIBLY on the line below and doublecheck that it is correct: _____

Notify us if your contact information is different from what is shown above, or changes after submitting this form.

EXHIBIT 3

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Grace Oliveri v. The Ambulatory Surgery Center of Westchester
Case No. 66660/2024
Supreme Court of New York, Westchester County

IF YOUR PRIVATE INFORMATION WAS POTENTIALLY COMPROMISED IN THE NOVEMBER 2023 MOUNT KISCO DATA SECURITY INCIDENT, A PROPOSED CLASS ACTION SETTLEMENT MAY AFFECT YOUR RIGHTS, AND ENTITLE YOU TO BENEFITS AND A CASH PAYMENT.

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

You are not being sued.

Please read this Notice carefully and completely.

- A Settlement has been reached with Mount Kisco Surgery Center LLC, d/b/a The Ambulatory Surgery Center of Westchester (“Mount Kisco” or “Defendant”) in a class action lawsuit. This case is about a cyberattack on Mount Kisco that occurred in November 2023 (the “Data Security Incident”). Certain files that contained private information were potentially accessed. These files may have contained personal information such as full names; Social Security numbers; driver’s licenses; state identification numbers; dates of birth; medical information; including diagnoses information; treatment information; and prescription information; health insurance information; including claim information and health insurance ID numbers and financial account information.
- The lawsuit is called Grace Oliveri et al. v. The Ambulatory Surgery Center of Westchester, Case No. 66660/2024. It is pending in the Supreme Court of New York, Westchester County (the “Litigation”).
- Mount Kisco denies that it did anything wrong, and the Court has not decided who is right.
- The parties have agreed to settle the lawsuit (the “Settlement”) to avoid the costs and risks, disruptions, and uncertainties of continuing the Litigation.
- Mount Kisco's records indicate that you are a Class Member, and entitled to benefits under the Settlement. You may have received a previous notice directly from Mount Kisco.
- Your rights are affected whether you act or don’t act. Please read this Notice carefully and completely.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT		DEADLINE
SUBMIT A CLAIM	<p>The only way to receive benefits or payments from this Settlement is by submitting a valid and timely Claim Form.</p> <p>The fastest way to submit your Claim Form is online at www.[SettlementWebsite].com. If you prefer, you can download the Claim Form from the Settlement Website and mail it to the Settlement Administrator. You may also call or email the Settlement Administrator to receive a paper copy of the Claim Form.</p>	[REDACTED], 2025
OPT OUT OF THE SETTLEMENT	You can choose to opt out of the Settlement and receive no benefit or payment. This option allows you to sue, continue to sue, or be part of another lawsuit against the Defendants related to the legal claims resolved by this Settlement. You can hire your own lawyer at your own expense.	[REDACTED], 2025
OBJECT TO THE SETTLEMENT AND/OR ATTEND A HEARING	If you do not opt out of the Settlement, you may object to it by writing to the Court about why you don't like the Settlement. You may also ask the Court for permission to speak about your objection at the Final Approval Hearing. If you object, you may also file a claim for Settlement benefits.	[REDACTED], 2025
DO NOTHING	Unless you opt out of the Settlement, you are automatically part of the Settlement. If you do nothing, you will not receive benefits or payments from this Settlement and you will give up the right to sue, continue to sue, or be part of another lawsuit against the Defendant related to the legal claims resolved by this Settlement.	No Deadline

- [REDACTED]
- [REDACTED]

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Basic Information

1. Why was this Notice issued?

The Supreme Court of New York, Westchester County, authorized this Notice. You have a right to know about the proposed Settlement of this class action lawsuit, and about all of your options, before the Court decides whether to grant final approval of the Settlement. This Notice explains the lawsuit, your legal rights, what benefits are available, and who can receive them.

The lawsuit is called Grace Oliveri v. The Ambulatory Surgery Center of Westchester, Case No. 66660/2024. It is pending in the Supreme Court of New York, Westchester County. The people that filed this lawsuit are called the “Plaintiffs” (or “Class Representatives”) and the company they sued, Mount Kisco Surgery Center LLC, d/b/a The Ambulatory Surgery Center of Westchester, is called the “Defendant.”

2. What is this lawsuit about?

This lawsuit alleges that during the November 2023 cyberattack on Mount Kisco, certain files that contained private information were potentially accessed. These files may have contained personal information such as full names; Social Security numbers; driver’s licenses; state identification numbers; dates of birth; medical information; including diagnoses information; treatment information; and prescription information; health insurance information; including claim information and health insurance ID numbers and financial account information.

3. What is a class action?

In a class action, one or more individuals sue on behalf of other people with similar claims. These individuals are called the “Plaintiffs” or “Class Representatives.” Together, the people included in the class action are called a “Class” or “Class Members.” One court resolves the lawsuit for all Class Members, except for those who opt out from the settlement. In this Settlement, the Class Representatives are Grace Oliveri; Tracy Policicchio; and E.B. by his guardian, Candace Bassi. Everyone included in this Action are the Class Members.

4. Why is there a Settlement?

The Court did not decide whether the Plaintiffs or the Defendant are right. Both sides have agreed to a Settlement to avoid the costs and risks of a trial, and to allow the Class Members to receive benefits from the Settlement. The Plaintiffs and their attorneys think the Settlement is best for all Class Members.

Who is in the Settlement?

5. Who is included in the Settlement?

The court has defined the Class this way: “All persons in the United States whose Private Information was potentially compromised as a result of the Data Security Incident.”

6. Are there exceptions to being included?

Yes. Excluded from the Class are: (1) Mount Kisco and its officers, directors, and related companies; (2) governmental entities; (3) the Judge in this case, and the Judge’s family and staff; and (4) anyone who validly excludes themselves from the Settlement.

If you are not sure whether you are a Class Member, you can ask for free help any time by contacting the Settlement Administrator at:

- Email: [info@\[SettlementWebsite\].com](mailto:info@[SettlementWebsite].com)
- Call toll free, 24/7: 1-XXX-XXX-XXXX
- By mail: Mount Kisco Data Security Incident Settlement
c/o Settlement Administrator
[PO Box Number]
Santa Ana, CA92799-9958

You may also view the Settlement Agreement at [www.\[SettlementWebsite\].com](http://www.[SettlementWebsite].com).

The Settlement Benefits

7. What does the Settlement provide?

Mount Kisco will establish a Settlement Fund of \$527,500.00. The Settlement Fund will first be used to pay court-approved attorneys’ fees and costs, Service Award payments for the Plaintiffs, and the costs of administering the Settlement. The net remaining money will be used to pay for the benefits described below.

Mount Kisco has agreed to pay for a number of different benefits. You have two cash payment options:

OPTION A: Cash Payment A – Documented Losses

- Out-of-Pocket Expenses up to \$5,000.00

OR

OPTION B: Cash Payment B – Flat Cash Payment

- Receive a one-time \$100.00 cash payment

The total benefit paid by Defendant will consist of the \$527,500.00 Settlement Fund. This means that if the total value of benefits claimed is over \$527,500.00, everyone's payments will be reduced pro rata so that they add up to \$527,500.00.

A full description of how this works is available in Settlement Agreement, at [www.\[SettlementWebsite\].com](http://www.[SettlementWebsite].com).

Credit Monitoring. All Class Members are eligible to enroll in two years of Credit Monitoring. This benefit includes:

- real time monitoring of your credit file
- dark web scanning
- comprehensive public records monitoring

If anything suspicious happens, you will be able to talk to a fraud resolution agent to help fix any problems.

Cash Payment A—Documented Losses. If you incurred actual, documented out-of-pocket losses due to the Data Security Incident, you can get backup to \$5,000.00. The losses must have occurred between November 3, 2023, and [\[Claims Deadline\]](#).

This benefit covers out-of-pocket expenses like:

- losses because of identity theft or fraud
- fees for credit reports, credit monitoring, or freezing and unfreezing your credit
- cost to replace your IDs
- postage to contact banks by mail

You need to send proof, like bank statements or receipts, to show how much you spent or lost. You can also send notes or papers you made yourself to explain or support other proof, but those notes or papers alone are not enough to make a valid claim. Your proof or notes should show that your expenses were because of the Data Incident.

You cannot claim a payment for expenses that have already been reimbursed by a third party.

Cash Payment B—Flat Cash Payment. Instead of the benefits in Option A, you may claim a one-time cash payment. This payment is expected to be \$100.00, but maybe larger or smaller depending on the total claims filed. You do not have to provide any proof or explanation to claim this payment.

Settlement Class Cash Payments will be subject to a pro rata increase in the event the amount of Valid Claims is insufficient to exhaust the entire Settlement Fund.

In the event the amount of Valid Claims exhausts the amount of the Settlement Fund, the amount of the Cash Payments will be reduced pro rata accordingly. Any pro rata increases or decreases to Cash Payments will be on an equal percentage basis.

You do not have to provide any proof or explanation to claim this payment

If you have questions about these benefits, you can ask for free help any time by contacting the Settlement Administrator at:

- Email: [info@\[SettlementWebsite\].com](mailto:info@[SettlementWebsite].com)
- Call toll free, 24/7: 1-XXX-XXX-XXXX
- By mail: Mount Kisco Data Security Incident Settlement
c/o Settlement Administrator
[PO Box Number]
Santa Ana, CA92799-9958

8. What claims am I releasing if I stay in the Class?

If you stay in the class, you won't be able to be part of any other lawsuit against Mount Kisco about the issues that this Settlement covers. The "Releases" section of the Settlement Agreement (Section XIII) describes the legal claims that you give up if you remain in the Class. The Settlement Agreement is available at [www.\[SettlementWebsite\].com](http://www.[SettlementWebsite].com).

Submitting a Claim Form for a Settlement Payment

9. How do I submit a claim for a Settlement benefit?

The fastest way to submit your Claim Form is online at [www.\[SettlementWebsite\].com](http://www.[SettlementWebsite].com). If you prefer, you can download a printable Claim Form from the website and mail it to the Settlement Administrator at:

Mount Kisco Data Security Incident Settlement
c/o Settlement Administrator
[PO Box Number]
Santa Ana, CA92799-9958

You may also contact the Settlement Administrator to request a Claim Form by telephone, toll free, 1-XXX-XXX-XXXX, by email [info@\[SettlementWebsite\].com](mailto:info@[SettlementWebsite].com), or by U.S. mail at the address above.

10. Are there any important Settlement payment deadlines?

If you are submitting a Claim Form online, you must do so by [Claims Deadline]. If you are submitting a claim by U.S. mail, the completed and signed Claim Form, including supporting documentation, must be postmarked no later than [Claims Deadline].

11. When will the Settlement benefits be issued?

© 2018 Mount Kisco Data Security Incident Settlement. All rights reserved. This document is confidential and intended solely for the use of the individual named. If you have received this document by mistake, please notify the Settlement Administrator at [info@\[SettlementWebsite\].com](mailto:info@[SettlementWebsite].com) or call 1-XXX-XXX-XXXX. This document is not to be distributed, copied, or otherwise used without the express written permission of the Settlement Administrator.

The Lawyers Representing You

12. Do I have a lawyer in the case?

Yes, the Court has appointed attorneys David K. Lietz of Milberg Coleman Bryson Phillips Grossman, PLLC; Scott Edward Cole of Cole & Van Note; and Jarrett L. Ellzey of Ellzey, Kherkher, Sanford & Montgomery LLP, to represent you and other Class Members (“Class Counsel”).

13. Should I get my own lawyer?

You will not be charged for Class Counsel’s services. If you want your own lawyer, you may hire one at your expense.

14. How will Class Counsel be paid?

Class Counsel will ask the court to approve \$175,833.33 as reasonable attorneys’ fees, plus and costs of litigation. This amount will be paid from the Settlement Fund.

Class Counsel will also ask for Service Award payments of \$2,500.00 for each of the Class Representatives. Service Award payments will also be paid from the Settlement Fund.

Excluding Yourself from the Settlement

15. How do I opt out of the Settlement?

If you do not want to be part of the Settlement, you must formally exclude yourself from the Settlement. This is called a Request for Exclusion, and is sometimes also called “opting out.” If you opt out, you will not receive Settlement benefits or payment. However, you will keep any rights you may have to sue Mount Kisco on your own about the legal issues in this case.

If you exclude yourself, you are telling the Court that you do not want to be part of the Settlement. You will not be eligible to receive any Settlement benefits if you exclude yourself.

The deadline to exclude yourself from the Settlement is [Opt-Out Deadline].

To be valid, your Request for Exclusion must have the following information:

- (1) the name of the Litigation: Grace Oliveri v. The Ambulatory Surgery Center of Westchester, Case No. 66660/2024, pending in the Supreme Court of New York, Westchester County;
- (2) your full name, mailing address, telephone number, and email address;
- (3) personal signature; and
- (4) the words “Request for Exclusion” or a clear and similar statement that you do not want to participate in the Settlement.

You may only exclude yourself—not any other person.

Mail your Request for Exclusion to the Settlement Administrator at:

Mount Kisco Data Security Incident Settlement
ATTN: Exclusion Request
[PO Box Number]
Santa Ana, CA92799-9958

Your Request for Exclusion must be submitted, postmarked, or emailed by [Opt-Out Deadline].

Commenting on or Objecting to the Settlement

16. How do I tell the Court if I like or do not like the Settlement?

If you are a Class Member and do not like part or all of the Settlement, you can object to it. Objecting means telling the Court your reasons for why you think the Court should not approve the Settlement. The Court will consider your views.

You cannot object if you have excluded yourself from the Settlement (see Question 15)

You must provide the following information for the Court to consider your objection:

- (1) the name of the Litigation: Grace Oliveri v. The Ambulatory Surgery Center of Westchester, Case No. 66660/2024, pending in the Supreme Court of New York, Westchester County;
- (2) your full name, mailing address, telephone number, and email address;
- (3) a clear description of all the reasons you object; include any legal support, such as documents, you may have for your objection;
- (4) if you have objected in any other cases in the past five years, list the names, courts, the orders ruling on your objections, and civil action numbers for each of those cases;
- (5) if you have hired your own lawyer to represent you for this objection, provide their name, bar number, and contact information;
- (6) if your lawyer has objected in any other cases in the past five years, list the names, courts, the orders ruling on your objections, and civil action numbers for each of those cases;
- (7) any and all agreements that relate to the objection or the process of objecting objector or objector's counsel and any other person or entity;
- (8) whether or not you or your lawyer would like to speak at the Final Approval Hearing;
- (9) if you plan on calling witnesses or submitting documents at the Final Approval Hearing, provide a full list of both;
- (10) a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing;
- (11) your signature (if you have hired your own lawyer, their signature is not sufficient).

For your objection to be valid, it must meet each of these requirements.

To be considered by the Court, you must file your complete objection with the Clerk of Court by **[OBJECTION DATE]**. You must also send a copy of the objection to the Settlement Administrator, Class Counsel, and counsel for Defendants.

Clerk of the Court	Settlement Administrator
Clerk of the Court [Court Address]	Mount Kisco Data Security Incident Settlement ATIN: Objections [PO Box Number] Santa Ana, CA92799-9958

Class Counsel	Counsel for Defendants
David K Lietz Milberg Coleman Bryson Phillips Grossman, PLLC 5335 Wisconsin Ave. NW, Ste. 440 Washington, D.C. 20015 Scott Edward Cole Cole & Van Note 555 12th St., Ste. 2100 Oakland, CA94607 Jarrett Ellzey Leigh Montgomery EKSM, LLP 4200 Montrose Blvd., Ste. 200 Houston, TX77006	Richard M Haggerty Mullen Coughlin LLC 426 W. Lancaster Ave., Ste. 200 Devon, PA19333

18. When is the Court's Final Approval Hearing?

The Court will hold a final approval on **[FAHearing Date]** at **[Hearing Time]** Eastern Time, in Room **[Court Room]** of the Supreme Court of New York, Westchester County, at **[Court Address]**.

The Court's Final Approval Hearing

18. When is the Court's Final Approval Hearing?

The Court will hold a final approval on **[FAHearing Date]** at **[Hearing Time]** Eastern Time, in Room **[Court Room]** of the Supreme Court of New York, Westchester County, at **[Court Address]**.

At the final approval hearing, the Court will decide whether to approve the Settlement. The court will also decide how Class Counsel should be paid, and whether to award Service Award payments to the Class Representatives. The Court will also consider any objections to the Settlement.

If you are a Class Member, you or your lawyer may ask permission to speak at the hearing at your own cost (See Question 16).

The date and time of this hearing may change without further notice. Please check [www.\[SettlementWebsite\].com](http://www.[SettlementWebsite].com) for updates.

19. Do I have to come to the Final Approval Hearing?

No. Class Counsel will answer any questions the Court may have. You may attend at your own expense if you wish, but you do not have to.

If you file an objection, you do not have to come to the Final Approval Hearing to talk about it; the Court will consider it as long as it was filed on time. You may also pay your own lawyer to attend, but you do not have to.

If I Do Nothing

20. What happens if I do nothing at all?

If you do nothing, you will not receive a benefit from this Settlement.

You will also give up the rights described in Question 8.

Getting More Information

21. How do I get more information?

This Notice is a summary of the proposed Settlement. The full Settlement Agreement and other related documents are available at the Settlement Website, [www.\[SettlementWebsite\].com](http://www.[SettlementWebsite].com).

If you have additional questions, you can ask for free help any time by contacting the Settlement Administrator at:

- Email: [info@\[SettlementWebsite\].com](mailto:info@[SettlementWebsite].com)
- Call toll free, 24/7: 1-~~XXX-XXX-XXXX~~
- By mail: Mount Kisco Data Security Incident Settlement
c/o Settlement Administrator
[\[PO Box Number\]](#)
Santa Ana, CA 92799-9958

You can obtain copies of publicly filed documents by visiting the office of the Clerk of the Court, [\[Court Address\]](#).

DO NOT CONTACT THE COURT OR CLERK OF COURT REGARDING THIS SETTLEMENT

EXHIBIT 4

Your claim must
be submitted
online or
postmarked by:

[Claims Deadline]

Case No.

SETTLEMENT CLAIM FORM

Your claim must
be submitted
online or
postmarked by:

[Claims Deadline]

GENERAL INSTRUCTIONS

Who is eligible to file a claim? The court has defined the Class this way: “All persons in the United States whose Private Information was potentially compromised as a result of the Data Security Incident.”

Excluded from the Settlement Class are: (1) Mount Kisco and its officers, directors, and related companies; (2) governmental entities; (3) the Judge in this case, and the Judge’s family and staff; and (4) anyone who validly excludes themselves from the Settlement.

COMPLETE THIS CLAIM FORM IF YOU ARE A CLASS MEMBER AND WISH TO RECEIVE ONE OR MORE OF THE FOLLOWING SETTLEMENT BENEFITS

AVAILABLE BENEFITS

Mount Kisco will establish a Settlement Fund of \$527,500.00. The Settlement Fund will first be used to pay court-approved attorneys’ fees and costs, Service Award payments for the Plaintiffs, and the costs of administering the Settlement. The net remaining money will be used to pay for the benefits described below.

Mount Kisco has agreed to pay for a number of different benefits:

Credit Monitoring. All Class Members are eligible to enroll in two years of Credit Monitoring. This benefit includes:

- real time monitoring of your credit file
- dark web scanning
- comprehensive public records monitoring

If anything suspicious happens, you will be able to talk to a fraud resolution agent to help fix any problems.

Cash Payment A– Documented Losses. If you incurred actual, documented out-of-pocket losses due to the Data Security Incident, you can get back up to \$5,000.00. The losses must have occurred between November 3, 2023, and [Claims Deadline].

This benefit covers out-of-pocket expenses like:

- losses because of identity theft or fraud
- fees for credit reports, credit monitoring, or freezing and unfreezing your credit
- cost to replace your IDs
- postage to contact banks by mail

Questions? Call 1-XXX-XXX-XXXX Toll-Free or Visit [www.\[SettlementWebsite\].com](http://www.[SettlementWebsite].com)

Your claim must
be submitted
online or
postmarked by:

[Claims Deadline]

Case No.

SETTLEMENT CLAIM FORM

Your claim must
be submitted
online or
postmarked by:

[Claims Deadline]

You need to send proof, like bank statements or receipts, to show how much you spent or lost. You can also send notes or papers you made yourself to explain or support other proof, but those notes or papers alone are not enough to make a valid claim. Your proof or notes should show that your expenses were because of the Data Incident.

You cannot claim a payment for expenses that have already been reimbursed by a third party.

Cash Payment B—Flat Cash Payment. Instead of the benefits in Option A, you may claim a one-time cash payment. This payment is expected to be \$100.00, but may be larger or smaller depending on the total claims filed. You do not have to provide any proof or explanation to claim this payment.

Settlement Class Cash Payments will be subject to a pro rata increase in the event the amount of Valid Claims is insufficient to exhaust the entire Settlement Fund.

In the event the amount of Valid Claims exhausts the amount of the Settlement Fund, the amount of the Cash Payments will be reduced pro rata accordingly. Any pro rata increases or decreases to Cash Payments will be on an equal percentage basis.

You do not have to provide any proof or explanation to claim this payment.

If you have questions about these benefits, you can ask for free help any time by contacting the Settlement Administrator at:

- Email: [info@\[SettlementWebsite\].com](mailto:info@[SettlementWebsite].com)
- Call toll free, 24/7: 1-XXX-XXX-XXXX
- By mail: Mount Kisco Data Security Incident Settlement
c/o Settlement Administrator
[PO Box Number]
Santa Ana, CA 92799-9958

THE MOST EFFICIENT WAY TO SUBMIT YOUR CLAIMS IS ONLINE AT

[www.\[SettlementWebsite\].com](http://www.[SettlementWebsite].com)

You may also print out and complete this Claim Form, and submit it by U.S. mail.

An electronic image of the completed Claim Form can also be emailed to [info@\[SettlementWebsite\].com](mailto:info@[SettlementWebsite].com)

You must submit your Claim Form online, by mail, or by email no later than [Claims Deadline].

Questions? Call 1-XXX-XXX-XXXX Toll-Free or Visit [www.\[SettlementWebsite\].com](http://www.[SettlementWebsite].com)

Your claim must
be submitted
online or
postmarked by:

[Claims Deadline]

Case No.

SETTLEMENT CLAIM FORM

Your claim must
be submitted
online or
postmarked by:

[Claims Deadline]

IV. CASH PAYMENT B – FLAT CASH PAYMENT

Check this box if you want to claim a one-time \$100.00 cash payment.

DO NOT CLAIM THIS BENEFIT IF YOU ARE CLAIMING PAYMENTS FROM SECTION III.

V. PAYMENT SELECTION

Please select one of the following payment options, which will be used if you are claiming a cash payment.

PayPal

Email address, if different than you provided in Section 1: _____

Venmo

Mobile number, if different than you provided in Section 1: _____

Zelle

Email address or mobile number, if different than you provided in Section 1: _____

Virtual Prepaid Card

Email address, if different than you provided in Section 1: _____

Physical Check

Payment will be mailed to the address provided in Section 1.

VII. ATTESTATION & SIGNATURE

I swear and affirm on penalty of perjury that the information provided in this Claim Form, including supporting documentation, is true and correct to the best of my knowledge. I understand that my claim is subject to verification and that I may be asked to provide supplemental information by the Settlement Administrator before my claim is considered complete and valid.

Signature

Printed Name

Date

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [\\$527K Ambulatory Surgery Center of Westchester Settlement Ends Data Breach Class Action Lawsuit](#)
