

<p>EARL WILKINS, JANE DOE, KATHLEEN FERRARA, and ANTOINETTE SCANDARIATO, <i>et al.</i>,</p> <p style="text-align: center;">Plaintiffs,</p> <p>v.</p> <p>MULKAY CARDIOLOGY CONSULTANTS AT HOLY NAME MEDICAL CENTER, P.C. and MULKAY CARDIOLOGY CONSULTANTS, P.C.</p> <p style="text-align: center;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY</p> <p>LAW DIVISION: BERGEN COUNTY</p> <p>Docket No. BER-L-006203-23</p>
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SETTLEMENT AGREEMENT

This Settlement Agreement¹, dated as of this ____ day of _____, 2024, is made and entered into by and among the following parties: (i) Plaintiffs Earl Wilkins, Jane Doe, Kathleen Ferrara, and Antoinette Scandariato, individually, and on behalf of the Settlement Class (collectively, “Plaintiffs” or “Class Representatives”), and (ii) Defendants Mulkay Cardiology Consultants at Holy Name Medical Center, P.C., and Mulkay Cardiology Consultants, P.C. (collectively, “Defendants” or “Mulkay”), in the case of *Wilkins et al. v. Mulkay Cardiology Consultants at Holy Name Medical Center, P.C. and Mulkay Cardiology Consultants, P.C.*, No. BER-L-006203-23, currently pending in the Superior Court of New Jersey, Bergen County Law Division (the “Action”). This Settlement Agreement is subject to Court approval and is intended by the Parties to fully, finally, and forever resolve, discharge, and settle the Released Claims upon and subject to the terms and conditions hereof.

¹ All capitalized terms herein shall have the same meanings as those defined in Section IV below.

I. THE LITIGATION

This Action arises out of a data security incident, which is defined below as the “Data Incident.” Plaintiffs allege that between September 1, 2023 and September 5, 2023, an unknown and unauthorized criminal actor accessed Mulkay’s network and accessed certain current and former patients’ Private Information that Mulkay collected and maintained. Following notification of the Data Incident, Plaintiffs filed a class action lawsuit asserting various claims against Mulkay relating to the Data Incident. After Defendant filed a motion to dismiss, rather than committing to continued protracted litigation, counsel for the Parties began to exchange information and discuss a potential early resolution of the Action. The Parties engaged in arm’s-length negotiations concerning a possible settlement of the claims asserted in the Action. As a result of these negotiations, the Parties reached an agreement in principle to settle all claims on a class-wide basis.

II. CLAIMS OF PLAINTIFFS AND BENEFITS OF SETTLING

Plaintiffs believe the claims asserted in the Action, as set forth in the Complaint, have merit. Plaintiffs and Class Counsel recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the Action against Mulkay through motion practice, trial, and potential appeals. They have also considered the uncertain outcome and risk of further litigation and the difficulties and delays inherent in such litigation. Class Counsel are highly experienced in class-action litigation and very knowledgeable regarding the relevant claims, remedies, and defenses at issue in data breach litigation in general and in this Action in particular. They have determined that the settlement set forth in this Settlement Agreement is fair, reasonable, and adequate and in the best interests of the Settlement Class.

III. DENIAL OF WRONGDOING AND LIABILITY

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

IV. TERMS OF SETTLEMENT

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among Plaintiffs, individually and on behalf of the Settlement Class, Class Counsel, and Mulkay that, subject to the approval of the Court, the Action and the Released Claims shall be finally and fully compromised, settled, and released, and the Litigation shall be dismissed with prejudice as to the Parties, the Settlement Class, and the Participating Settlement Class Members, upon and subject to the terms and conditions of this Settlement Agreement, as follows:

1. Definitions

As used herein and in the related documents attached as exhibits, the following terms have the meanings specified below:

1.1 “Action” means the class action lawsuit styled *Wilkins et al. v. Mulkay Cardiology Consultants at Holy Name Medical Center, P.C. and Mulkay Cardiology Consultants, P.C.*, Case No. BER-L-006203-23, currently pending in the Superior Court of New Jersey, Bergen County Law Division.

1.2 “Agreement,” “Settlement Agreement,” and/or “Settlement” means this Settlement Agreement and Release, including the terms and conditions set forth in this document together with any and all exhibits and attachments hereto, which are incorporated herein by reference and expressly conditioned upon Court approval.

1.3 “Application for Attorneys’ Fees and Costs” means the motion made by Class Counsel seeking reimbursement for Class Counsel’s attorneys’ fees, expenses, and costs, which shall be filed no more than 30 days after the Notice Date.

1.4 “Claims Administration” means the review, processing, and payment of claims received from Participating Settlement Class Members by the Settlement Administrator.

1.5 “Claim(s)” means a claim for settlement benefits made by a Claimant.

1.6 “Claimant(s)” means a Participating Settlement Class Member who submits a Claim.

1.7 “Claims Deadline” means the postmark and/or online deadline for the submission of Claim Forms, which is 90 days after the Notice Date.

1.8 “Claim Form” means the form, substantially similar to ***Exhibit 3***, attached hereto, utilized by the Settlement Class to submit a Claim for benefits under the Settlement on or before the Claims Deadline.

1.9 “Claims Period” means the period for filing Claims up until a date certain 90 days from the Notice Date.

1.10 “Class List” means a list of members of the Settlement Class. Mulkay shall prepare and provide the Class List to the Settlement Administrator for Notice using Mulkay’s records. The Class List shall include the names and last-known postal addresses of the members of the Settlement Class.

1.11 “Class Counsel” and “Settlement Class Counsel” means attorneys Nickolas J. Hagman of Cafferty Clobes Meriwether & Sprengel LLP, Kevin Laukaitis of Laukaitis Law LLC, Tyler Bean of Siri & Glimstad, LLP, and Israel David of Israel David LLC.

1.12 “Complaint” means the Consolidated Amended Class Action Complaint filed by Plaintiffs in this Action on February 16, 2024.

1.13 “Court” means the Superior Court of New Jersey, Bergen County Law Division.

1.14 “Data Incident” means the data security incident alleged in the Complaint whereby between September 1, 2023 and September 5, 2023, an unknown and unauthorized criminal actor gained access to Mulkay’s network and may have accessed certain current and former patients’ Private Information that Mulkay collected and maintained.

1.15 “Defendants” or “Mulkay” means Mulkay Cardiology Consultants at Holy Name Medical Center, P.C. and Mulkay Cardiology Consultants, P.C., and includes their employees, directors, officers, shareholders, attorneys, consultants, contractors, affiliates, insurers, agents, parent companies, predecessors, successors, subsidiaries, and assigns of Mulkay, whether specifically named in the Action or not.

1.16 “Defendants’ Counsel” means Timothy J. Lowe of McDonald Hopkins PLC located at 39533 Woodward Ave., Ste. 318, Bloomfield Hills, Michigan 48304.

1.17 “Effective Date” means the one business day after all of the events and conditions specified in Paragraph 1.18 herein have occurred and been met.

1.18 “Final” means the occurrence of all of the following events: (i) the Settlement is finally approved by the Court and the Court enters the Final Approval Order; (ii) the Court has entered a Judgment; and (iii) the time to appeal or seek permission to appeal from the Judgment has expired or, if appealed, the appeal has been dismissed in its entirety, or the Judgment has been

affirmed in its entirety by the court of last resort to which such appeal may be taken, and such dismissal or affirmance has become no longer subject to further appeal or review. Notwithstanding the above, any order modifying or reversing any attorneys' fee and costs award made in this case shall not affect whether the Judgment is "Final" as defined herein or any other aspect of the Judgment.

1.19 "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.

1.20 "Final Approval Hearing" means the hearing held before the Court during which the Court will consider granting Final Approval of the Settlement and the Application for Attorneys' Fees and Costs, which the Parties shall ask the Court to put on the calendar at least 150 days following entry of the Preliminary Approval Order.

1.21 "Final Approval Order" means the Court's order granting the Motion for Final Approval and finally approving the Settlement, which may also include a Final Judgment dismissing the Action.

1.22 "Final Judgment" means the final judgment rendered by the Court and dismissal with prejudice of the claims against Defendants in this Action, entered in connection with the Settlement and Final Approval Order.

1.23 "Long Form Notice" means the long form Notice of the Settlement posted on the Settlement Website, and available in hard copy upon request to the Settlement Administrator, substantially in the form as shown in *Exhibit 2* hereto.

1.24 "Motion for Final Approval" means the motion that Plaintiff and Settlement Class Counsel shall file with the Court seeking Final Approval of the Settlement.

1.25 “Motion for Preliminary Approval” means the motion that Plaintiff and Settlement Class Counsel shall file with the Court seeking Preliminary Approval of the Settlement.

1.26 “Notice” means the mailed Postcard Notice and Long Form Notice that Plaintiff will ask the Court to approve in connection with the Motion for Preliminary Approval.

1.27 “Notice Date” means the date of the first mailing of the Postcard Notice for purposes of calculating the Opt-Out and Objection Deadline, and all other deadlines that flow from the Notice commencement date, which shall be completed by the Notice Deadline.

1.28 “Notice Deadline” means 30 days after the Court enters the Preliminary Approval Order.

1.29 “Notice Program” means the methods provided for in this Agreement for giving Notice to the Settlement Class and consists of Postcard Notice and Long Form Notice.

1.30 “Opt-Out and Objection Deadline” means the date that is 45 days following the Notice Date. The postmark date shall constitute evidence of the date of mailing or e-mailing for these purposes.

1.31 “Opt-Out and Objection Report” means a report of all opt-outs and objections that have been submitted in a timely and valid manner, which the Settlement Administrator shall provide to Class Counsel and Defendants’ Counsel.

1.32 “Participating Settlement Class Member(s)” means a member of the Settlement Class who has not validly and timely opted-out of the Settlement.

1.33 “Party” means each of the Plaintiffs and Defendants, and “Parties” means Plaintiffs and Defendants, collectively.

1.34 “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.

1.35 “Plaintiffs” or “Class Representatives” means Earl Wilkins, Jane Doe, Kathleen Ferrara, and Antoniette Scandariato.

1.36 “Postcard Notice” means the postcard notice of the Settlement, substantially in the form attached as *Exhibit 1*.

1.37 “Preliminary Approval” means the preliminary approval of the Settlement, which occurs when the Court enters the Preliminary Approval Order.

1.38 “Preliminary Approval Order” means the Court’s order preliminarily approving the Settlement and proposed Notice Program, substantially in the form attached as *Exhibit 4*.

1.39 “Private Information” or “PI” means the information potentially accessed during the Data Incident, including individual names, addresses, dates of birth, Social Security numbers, driver’s license numbers or state IDs, medical treatment information, and health insurance information.

1.40 “Released Claims” shall collectively mean any and all past, present, and future claims and causes of action including, but not limited to, any causes of action arising under or premised upon any statute, constitution, law, ordinance, treaty, regulation, or common law of any country, state, province, county, city, or municipality, including 15 U.S.C. §§ 45, *et seq.*, and all similar statutes in effect in any states in the United States; negligence; negligence *per se*; breach of contract; breach of implied contract; breach of fiduciary duty; breach of confidence; invasion of privacy; fraud; misrepresentation (whether fraudulent, negligent or innocent); unjust enrichment; bailment; wantonness; failure to provide adequate notice pursuant to any breach notification statute

or common law duty; and including, but not limited to, any and all claims for damages, injunctive relief, disgorgement, declaratory relief, equitable relief, attorneys' fees and expenses, pre-judgment interest, credit monitoring services, the creation of a fund for future damages, statutory damages, punitive damages, special damages, exemplary damages, restitution, and/or the appointment of a receiver, whether known or unknown, liquidated or unliquidated, accrued or unaccrued, fixed or contingent, direct or derivative, and any other form of legal or equitable relief that either has been asserted, was asserted, or could have been asserted, by any Participating Settlement Class Member against any of the Released Parties based on, relating to, concerning or arising out of the Data Incident or the allegations, transactions, occurrences, facts, or circumstances alleged in or otherwise described in the Complaint. Released Claims shall not include the right of any Participating Settlement Class Member, Class Counsel, or any of the Released Parties to enforce the terms of the settlement contained in this Settlement Agreement and shall not include the claims of members of the Settlement Class who have timely and validly opted-out of the Settlement pursuant to the terms hereof.

1.41 "Released Parties" means Mulkay and its respective past or present parents, subsidiaries, divisions, departments, employees, members, partners, and related or affiliated entities, and each of its and their respective predecessors, successors, assigns, directors, officers, principals, agents, attorneys, insurers, and reinsurers, and includes, without limitation, any Person related to any such entity who is, was or could have been named as a defendant in this 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 Incident or who pleads *nolo contendere* to any such charge.

1.42 “Service Award” means the payment the Court may award the Plaintiffs for serving as Class Representatives, which is in addition to the Settlement Class Member Benefit due to Plaintiffs as Settlement Class Members.

1.43 “Settlement Administrator” means the class action settlement administrator Simpluris, Inc., a company experienced in administering class action claims generally and, specifically, those of the type provided for and made in data breach litigation, that has been retained to carry out the Notice Program and Claims Administration.

1.44 “Settlement Administration Costs” means all actual costs associated with settlement administration, including, but not limited to, the costs of the Notice Program and Claims Administration.

1.45 “Settlement Class” means all 79,582 individuals in the United States who were impacted by the Data Incident, including all who were sent a notice of the Data Incident that occurred on or between September 1, 2023 and September 5, 2023. Excluded from the Settlement Class are: (i) all persons who are employees, directors, officers, and agents of Mulkay; (ii) the judges assigned to the Action and to evaluate the fairness, reasonableness, and adequacy of this Settlement, and that judge’s immediate family and Court staff; and (iii) any other Person found by a court of competent jurisdiction to be guilty under criminal law of perpetrating, aiding, or abetting the criminal activity occurrence of the Data Incident or who pleads *nolo contendere* to any such charge.

1.46 “Settlement Class Member Benefit” means a cash payment or credit monitoring that a Participating Settlement Class Member may claim under the Settlement.

1.47 “Settlement Website” means the website the Settlement Administrator will establish as a means for the members of the Settlement Class to submit Claim Forms and obtain

notice, information, and relevant documents about the Settlement, including the Postcard Notice, Long Form Notice, and Claim Form.

1.48 “Unknown Claims” means any of the Released Claims that any Participating Settlement Class Member, including each Plaintiff, does not know or suspect to exist in his/her favor at the time of the release of Mulkay and the Released Parties that, if known by him or her, might have affected his or her settlement with, and release of, Mulkay and the Released Parties, or might have affected his or her decision not to object to and/or to participate in this Settlement Agreement. With respect to any and all Released Claims, the Parties stipulate and agree that upon the Effective Date, Plaintiffs intend to and expressly shall have, and each of the other Participating Settlement Class Members intend to and shall be deemed to have, and by operation of the Judgment shall have, waived the provisions, rights, and benefits conferred by California Civil Code § 1542, and also any and all provisions, rights, and benefits conferred by any law of any state, province, or territory of the United States (including, without limitation, California Civil Code §§ 1798.80, *et seq.*, Montana Code Ann. § 28-1-1602; North Dakota Cent. Code § 9-13-02; and South Dakota Codified Laws § 20-7-11), which is similar, comparable, or equivalent to California Civil Code §1542, which provides:

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

Participating Settlement Class Members, including Plaintiffs, may hereafter discover facts in addition to, or different from, those that they, and any of them, now know or believe to be true with respect to the subject matter of the Released Claims, but Plaintiffs expressly shall have, and each other Participating 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. The Parties acknowledge, and Participating Settlement Class Members shall be deemed by operation of the Judgment to have acknowledged, that the foregoing waiver is a material element of the Settlement of which this release is a part.

1.49 “Valid Claims” means Claims approved by the Settlement Administrator and found to be valid through the Claims Administration process.

2. Participating Settlement Class Member Benefits

2.1 Expense Reimbursement.

2.1.1 **Documented Out-of-Pocket Expenses Incurred as a Result of the Data Incident.** Participating Settlement Class Members who submit a Valid Claim using the Claim Form, including providing necessary supporting documentation, are eligible to be reimbursed for any documented ordinary losses, not to exceed \$500 per Participating Settlement Class Member, that were incurred as a result of the Data Incident, including but not limited to: (i) unreimbursed bank fees; (ii) long distance phone charges; (iii) cell phone charges (only if charged by the minute); (iv) data charges (only if charged based on the amount of data used); (v) postage; (vi) gasoline for local travel; and (vii) fees for credit reports, credit monitoring, or other identity theft insurance product purchased between September 1, 2023 and the date of the Preliminary Approval Order (“Out-of-Pocket Expenses”). To receive reimbursement for Out-of-Pocket Expenses, Participating Settlement Class Members must submit a Valid Claim, including documentation supporting their claims, to the Settlement Administrator.

2.1.2 **Reimbursement for Attested Lost Time.** Participating Settlement Class Members are also eligible to receive reimbursement for up to a total of three (3) hours of

lost time spent dealing with the Data Incident (calculated at the rate of \$25.00 per hour), by attesting (including by checking a box in the Claim Form) that the claimant spent the claimed time responding to issues raised by the Data Incident (“Lost Time”). To receive reimbursement for Lost Time, Participating Settlement Class Members must submit a Valid Claim to the Settlement Administrator.

2.1.3 **Alternative Cash Payment.** As an alternative to claiming compensation for ordinary expenses, extraordinary losses, and lost time as described above, Settlement Class Members who submit a valid and timely claim may elect to receive a one-time payment of up to \$48 without the need to document losses or attest to time spent as a result of the Data Incident. To be eligible for an alternative cash payment, Participating Settlement Class Members must submit a Valid Claim to the Settlement Administrator, and no supporting documentation is required from Participating Settlement Class Members to select this option.

2.1.4 **Compensation for Extraordinary Losses for a Victim of Actual Identity Theft.** Participating Settlement Class Members who submit a Valid Claim using the Claim Form, including necessary documentation, are eligible for the following compensation for actual identity theft, not to exceed \$5,000.00 per Participating Settlement Class Member, for proven monetary loss as a result of actual identity theft if: (i) the loss is an actual, documented, and unreimbursed monetary loss; (ii) the loss was directly related to the Data Incident; (iii) the loss occurred between September 1, 2023 and the date of the Preliminary Approval Order; (iv) the loss is not already covered by one or more of the documented Out-of-Pocket Expenses categories; and (v) the Participating Settlement Class Member made reasonable efforts to avoid, or seek reimbursement for, the loss, including, but not

limited, to exhaustion of all available credit monitoring insurance and identify theft insurance (“Extraordinary Losses”).

2.1.5 Participating Settlement Class Members seeking reimbursement under Paragraph 2.1 must complete and submit a Claim Form to the Settlement Administrator, postmarked or submitted online on or before the Claims Deadline. The Notice to the Settlement Class will specify the Claims Deadline and other relevant dates, including the Opt-Out and Objection Deadline. The Claimant must verify the Claim Form with a statement that his or her claim is true and correct, to the best of his or her knowledge and belief. Notarization shall not be required. Failure to provide supporting documentation for Out-of-Pocket Expenses and Extraordinary Losses as described in Paragraph 2.1, as requested on the Claim Form and/or by the Settlement Administrator, shall result in denial of a Claim.

2.2 Limitation on Reimbursable Expenses. Nothing in this Agreement shall be construed as requiring Mulkay to provide, and Mulkay shall not be required to provide, double payment for the same loss or injury that was reimbursed or compensated by any other source. No payment shall be made for emotional distress, personal/bodily injury, or punitive damages, as all such amounts are not recoverable pursuant to the terms of the Agreement.

2.3 Identity Theft Protection and Credit Monitoring. Participating Settlement Class Members may also submit a Claim to accept two years of free credit monitoring services. The services shall provide three-bureau monitoring and shall include: (i) up to \$1 million dollars of identity theft insurance coverage; (ii) three-bureau credit monitoring providing notice of changes to the Settlement Class Member’s credit profile; (iii) alerts for activity including new inquiries, new accounts created, and other leading indicators of identity theft; (iv) dark web monitoring;

(v) customer care and dedicated fraud resolution agent; (vi) comprehensive educational resources; and (vii) extended fraud resolution. Mulkay will pay for the credit monitoring services separate and apart from other Settlement benefits.

2.4 Information Security Improvements. In addition to a cash payment and/or credit monitoring, Mulkay has improved its information security systems and practices.

2.5 Claims Administration and Review Process.

2.5.1 The Settlement Administrator, in its sole discretion to be reasonably exercised, will determine whether (i) a Claim Form is valid, timely, and complete, and (ii) the Claim is fairly traceable to the Data Incident. Any Claim shall be deemed fairly traceable to the Data Incident by the Settlement Administrator if it occurred on or after September 1, 2023, and is related to the type of PI disclosed in the Data Incident.

2.5.2 To the extent the Settlement Administrator determines a Claim is deficient, within 10 days of making such a determination, the Settlement Administrator shall notify the Claimant of the deficiencies and that Claimant shall have 21 days to cure the deficiencies.

2.5.3 Following receipt of additional information requested by the Settlement Administrator, the Settlement Administrator shall have 10 days to determine whether the Claimant has cured the identified deficiencies. The Settlement Administrator shall exercise reasonable discretion to determine whether the Claimant has cured the deficient claim such that it reflects a facially valid Claim for expenses and/or reimbursement as described in Paragraph 2.1. If, after review of the Claim and all documentation submitted by the Claimant, the Settlement Administrator determines that such a Claim is facially valid, then

the Claim shall be paid. If the Claimant fails to cure the deficiency, the Settlement Administrator shall have no obligation to make a payment to that Claimant.

2.6 Settlement Administration Costs. Mulkay shall pay or cause to be paid all Settlement Administration Costs.

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

3. Preliminary Approval Order and Notice

3.1. As soon as practicable after the execution of the Agreement, Proposed Class Counsel and Defendants' Counsel shall jointly submit this Agreement to the Court, and Settlement Class Counsel will file a Motion for Preliminary Approval of the Settlement with the Court requesting entry of a Preliminary Approval Order that includes:

- a) Certification of the Settlement Class for settlement purposes only;
- b) Preliminary Approval of the Settlement Agreement as set forth herein;
- c) Appointment of Settlement Class Counsel;
- d) Appointment of Plaintiffs as Settlement Class Representatives;
- e) Approval of the Notice Program, Postcard Notice, and Long Form Notice;

- f) Approval of the Claim Form and Claims administration process as set forth herein;
and
- g) Appointment of Simpluris, Inc. as the Settlement Administrator.

The Postcard Notice, Long Form Notice, and Claim Form may be revised as agreed upon by the Parties. Immaterial revisions to these documents may be made prior to dissemination of Notice. Any changes to the Preliminary Approval Order, Postcard Notice, Long Form Notice, and Claim Form that do not materially affect the substance of the Settlement that the Court may require will not invalidate this Agreement.

3.2 Notice shall be provided to Settlement Class by the Settlement Administrator as follows:

- a) *Settlement Class Information:* Within 14 days of entry of the Preliminary Approval Order, Mulkay shall provide the Settlement Administrator with the Class List consisting of the name and last-known physical address of each member of the Settlement Class that Mulkay possesses. Mulkay will provide the most current Class List for all members of the Settlement Class as such information is contained in its or the Released Entities' records.
- b) The Class List and its contents shall be used by the Settlement Administrator solely for the purpose of performing its obligations pursuant to this Agreement and shall not be used for any other purpose at any time. Except to administer the Settlement as provided in this Agreement, or to provide all data and information in its possession to the Parties upon request, the Settlement Administrator shall not reproduce, copy, store, or distribute in any form, electronic or otherwise, the Class List.

- c) *Settlement Website:* Prior to the dissemination of the Postcard Notice, the Settlement Administrator shall establish the Settlement Website and shall be responsible for maintaining and updating the Settlement Website throughout the Claims period and until at least 180 days following Final Approval. The Settlement Website shall inform members of the Settlement Class of the terms of the Settlement, their rights, dates and deadlines and related information. The Settlement Website shall include the following: (i) the Postcard Notice and Long Form Notice; (ii) the Claim Form; (iii) the Preliminary Approval Order; (iv) the Agreement; (v) the Complaint; (vi) the Motion for Final Approval and Application for Attorneys' Fees, Costs; and (viii) any other materials agreed upon by the Parties and/or required by the Court. The Settlement Website shall provide members of the Settlement Class with the ability to complete and submit the Claim Form and any supporting documentation, electronically.
- d) *Postcard Notice:* By no later than the Notice Deadline, subject to the requirements of this Agreement and the Preliminary Approval Order, the Settlement Administrator shall provide Notice to the members of the Settlement Class as follows:
- by placing into the USPS by no later than the Notice Deadline a postcard to the postal address Mulkay provided the Settlement Administrator in the Class List. Before any mailing under this paragraph occurs, the Settlement Administrator shall run the postal addresses of members of the Settlement Class through the USPS

National Change of Address database to update any change of address on file with the USPS before the Notice Deadline;

- in the event that a Postcard Notice is returned to the Settlement Administrator by the USPS because the address of the recipient is not valid, and the envelope contains a forwarding address, the Settlement Administrator shall re-send the Postcard Notice to the forwarding address within 7 days of receiving the returned Postcard Notice;
- in the event that subsequent to the first mailing of the Postcard Notice, and at least 14 days prior to the Opt-Out and Objection Deadline, a Postcard Notice is returned to the Settlement Administrator by the USPS because the address of the recipient is no longer valid, *i.e.*, the envelope is marked “Return to Sender” and does not contain a new forwarding address, the Settlement Administrator shall perform a standard skip trace, in the manner that it customarily performs skip traces, in an effort to attempt to ascertain the current address of the particular member of the Settlement Class in question and, if such an address is ascertained, the Settlement Administrator will re-send the Postcard Notice within 7 days of receiving such information. This shall be the final requirement for mailing.

- e) A toll-free telephone help line shall be made available to provide members of the Settlement Class with additional information about the Settlement and to respond

to questions from members of the Settlement Class. The Settlement Administrator shall also maintain a P.O. Box where members of the Settlement Class may send documents or ask questions. The Settlement Administrator also will provide copies of the Long Form Notice and Claim Form, as well as the Agreement, upon request to members of the Settlement Class; and

- f) Contemporaneously with seeking Final Approval of the Settlement, Class Counsel and Defendants' Counsel shall cause to be filed with the Court a declaration from the Settlement Administrator with respect to the Notice Program and the Claims process.

3.3 The Postcard Notice, Long Form Notice, Claim Form and other applicable communications to the Settlement Class may be adjusted by the Settlement Administrator, respectively, in consultation and agreement with the Parties, as may be reasonable and not inconsistent with such approval.

3.4 Commencing on the Wednesday following the Notice Date, and thereafter on a weekly basis on Wednesdays, the Settlement Administrator shall provide to Settlement Class Counsel and Defendants' Counsel reports regarding the Settlement Administration, which shall include at least all the number of Postcard Notices and Claim Forms sent or returned as undeliverable, the number of Claim Forms filed, the number of Opt-Outs received, the number of Objections received, and statistics regarding the usage of the Settlement Website.

3.5 Class Counsel and Defendants' Counsel shall request that after Notice is completed, the Court hold a Final Approval Hearing and grant Final Approval of the Settlement.

4. Opt-Out Procedures

4.1 Each member of the Settlement Class wishing to opt-out of the Settlement shall individually sign and timely submit written notice of such intent to the designated Post Office box established by the Settlement Administrator, which shall include:

- a) the name of the Action: *Wilkins et al. v. Mulkey Cardiology Consultants at Holy Name Medical Center, P.C. and Mulkey Cardiology Consultants, P.C.*, No. BER-L-006203-23, pending in New Jersey Superior Court, Bergen County Law Division;
- b) full name of the member of the Settlement Class;
- c) current address of the member of the Settlement Class;
- d) telephone number of the member of the Settlement Class;
- e) signature of the member of the Settlement Class; and
- f) the words “Request for Exclusion” or a clear and similar statement that the member of the Settlement Class does not wish to participate in the Settlement.

4.2 All signatures on opt-out notices shall be wet signatures to ensure authenticity of same. Opt-outs must be submitted individually, and no mass or automated opt-outs shall be accepted. The written notice must clearly manifest the intent of a member of the Settlement Class to be excluded from the Settlement Class. To be effective, written notice must be postmarked no later than the Opt-Out and Objection Deadline.

4.3 All members of the Settlement Class who submit valid, timely, and complete notices of their intent to opt-out from the Settlement Class shall not receive any Settlement Class Member Benefits or be bound by the terms of the Agreement. All Participating Settlement Class

Members who do not opt-out of the Settlement Class shall be bound by the terms of this Agreement and Judgment entered thereon.

4.4 No later than 10 days after the Opt-Out and Objection Deadline, the Settlement Administrator shall distribute the Opt-Out and Objection Report.

4.5 If the Settlement Administrator receives more than 250 Opt-Outs from the Settlement, Defendant shall have the right to terminate the Settlement Agreement in its entirety. However, Defendant shall remain responsible for the payment of any administrative or notice costs already incurred.

5. Objection Procedures

5.1 Each Participating Settlement Class Member desiring to object to the Settlement shall submit a timely written notice of his or her objection by the Opt-Out and Objection Deadline. Such notice shall state: (i) the objector's full name, address, telephone number, and e-mail address (if any); (ii) information identifying the objector as a Participating Settlement Class Member, including proof that the objector is a member of the Settlement Class (*i.e.*, copy of Notice and a copy of original notice of the Data Incident); (iii) a written statement of all grounds for the objection, accompanied by any legal support for the objection and all evidence the objector believes applicable; (iv) the identity of any and all counsel representing the objector in connection with the objection; (v) a statement as to whether the objector and/or his or her counsel will appear at the Final Fairness Hearing; (vi) the objector's wet signature and the wet signature of the objector's duly authorized attorney or other duly authorized representative (along with documentation setting forth such representation); and (vii) a list, by case name, court, and docket number, of all other cases in which the objector has filed an objection to any proposed class action settlement within the last three years. To be timely, written notice of an objection in the

appropriate form must be filed with the Clerk of the Court and contain the case name and docket number, no later than the Opt-Out and Objection Deadline and served concurrently therewith on Class Counsel and counsel for Mulkay.

5.2 Any Participating Settlement Class Member who fails to comply with the requirements for objecting shall waive and forfeit any and all rights he or she may have to appear separately and/or to object to the Settlement and shall be bound by all the terms of the Settlement and by all proceedings, orders and judgments in the Action. Without limiting the foregoing, any challenge to the Settlement, the Final Approval Order, or the Judgment to be entered upon Final Approval shall be pursuant to appeal under the Federal Rules of Appellate Procedure and not through a collateral attack.

5.3 Any Settlement Class Member who requests to be excluded from the Settlement may not object to the Settlement.

6. Releases

6.1 Upon the Effective Date, each Participating Settlement Class Member, including Plaintiffs, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims. Further, upon the Effective Date, and to the fullest extent permitted by law, each Participating Settlement Class Member, including Plaintiffs, shall, either directly, indirectly, representatively, as a member of or on behalf of the general public or in any capacity, be permanently barred and enjoined from commencing, prosecuting, or participating in any recovery in any action in this or any other forum (other than participation in the settlement as provided herein) in which any of the Released Claims is asserted.

6.2 Upon the Effective Date, Mulkay shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged, Plaintiffs,

each and all of the Participating Settlement Class Members, and Settlement Class Counsel, of all claims, including Unknown Claims, based upon or arising out of the institution, prosecution, assertion, settlement, or resolution of the Action or the Released Claims and Mulkay agrees to not take any actions against any Plaintiffs, Participating Settlement Class Members, or Settlement Class Counsel with the intent to harm, damage, or limit any of their rights or privileges based on their participation in this Settlement. Any other claims or defenses Mulkay may have against such Parties that are not based upon or do not arise out of the institution, prosecution, assertion, settlement, or resolution of the Action or the Released Claims are specifically preserved and shall not be affected by the preceding sentence.

6.3 Nothing in this Paragraph 6 shall preclude any action to enforce the terms of this Settlement Agreement by Plaintiff, Participating Settlement Class Members, Settlement Class Counsel, and/or Mulkay.

7. Settlement Class Counsel's Application for Attorneys' Fees, Costs, and Service Awards to Plaintiffs

7.1 The Parties did not discuss the payment of attorneys' fees, costs, and/or Service Awards until after the substantive terms of the Settlement had been agreed upon. Plaintiffs shall timely file the Application for Attorneys' Fees, Costs, and Service Awards. Mulkay has offered to pay Settlement Class Counsels' fees and expenses up to \$300,000 and agrees not to contest the application if Settlement Class Counsel seeks an application from the Court in that amount.

7.2 Plaintiff's counsel, in their sole discretion, shall allocate and distribute any attorneys' fees and costs awarded by the Court.

7.3 Subject to Court approval, Mulkay has agreed not to object to a request for Service Awards in the amount of \$1,000.00 to each Class Representative.

7.4 If awarded by the Court, Mulkay shall pay or cause to be paid to the Settlement Administrator the awarded attorneys' fees, costs, and/or Service Awards within 21 days of the Effective Date. The Settlement Administrator shall then distribute the attorneys' fees and costs within 7 days of its receipt of such funds.

7.5 The amount(s) of any award of attorneys' fees, costs, and/or Service Awards are intended to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement. These payments will not in any way reduce the consideration being made available to the Settlement Class as described herein. No order of the Court, or modification or reversal or appeal of any order of the Court, concerning the amount(s) of any attorneys' fees, costs, and/or Service Awards shall affect whether the Judgment is Final or constitute grounds for cancellation or termination of this Settlement.

8. Administration of Claims

8.1 The Settlement Administrator shall administer and calculate the Claims submitted by Claimants. On a regular basis following entry of the Final Approval Order, the Settlement Administrator shall provide to Settlement Class Counsel and Mulkay reports as to the Claims that have been deemed valid, Claims where further information has been sought, Claims that have been rejected, and the funds distributed, and Settlement Class Counsel and Mulkay shall have the right to review and obtain supporting documentation to the extent necessary to resolve Claims administration issues. The Settlement Administrator's determination of whether a Settlement Claim is a Valid Claim shall be binding, subject to the process set forth in Paragraph 2.5. In addition to the foregoing, any Claims agreed to be paid by Mulkay shall be deemed a Valid Claim.

8.2 Participating Settlement Class Members shall have a choice of how to be paid, either via electronic payment (*e.g.*, Venmo), pre-paid electronic credit card, or check. All

Settlement checks shall be void 90 days after issuance and shall bear the language: “This check must be cashed within 90 days, after which time it is void.” Payments for Valid Claims shall be sent or postmarked within 60 days of the Effective Date, or within 30 days of the date that the Claim is approved, whichever is later. If a check becomes void, or an electronic payment or pre-paid electronic credit card is undeliverable, the Participating Settlement Class Member shall have until six months after the Effective Date to request re-issuance by the Settlement Administrator of a paper check. If no request for re-issuance is made within this period, the Participating Settlement Class Member will have failed to meet a condition precedent to recovery of Settlement Class Member Benefits, the Participating Settlement Class Member’s right to receive monetary relief shall be extinguished, and Mulkay shall have no obligation to make payments to the Participating Settlement Class Member for expense reimbursement under Paragraph 2.1 or any other type of monetary relief. For any checks that are issued or re-issued for any reason more than 180 days from the Effective Date, requests for re-issuance need not be honored after such checks become void.

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

8.4 No Party shall have any Claim against the Settlement Administrator, Mulkay, Released Parties, Settlement Class Counsel, Plaintiffs, and/or Defendants’ Counsel based on

distributions of the Settlement benefits described in Paragraph 2.1 to Participating Settlement Class Members.

8.5 Information submitted by Participating Settlement Class Members in connection with submitted Claims under this Settlement shall be deemed confidential and protected as such by the Settlement Administrator, Class Counsel, and Defendants' Counsel.

8.6 Residual funds. All residual funds remaining in any account maintained by the Settlement Administrator for purposes of administering this settlement shall revert back to, and be the property of, Defendant and/or its insurers at the conclusion of the settlement administration process. Such funds shall be transferred back to Defendant or its insurers within 10 business days of the close of the settlement administration period pursuant to wire instructions to be provided by counsel for Defendant.

9. Conditions of Settlement, Effect of Disapproval, Cancellation, or Termination

9.1 The Effective Date of the Settlement shall be conditioned on the occurrence of all of the events identified in Paragraphs 1.17 and 1.18 as making the Settlement Final.

9.2 Each Party shall have the right to terminate the Settlement Agreement if (i) the Court denies final approval of this Settlement Agreement or grants final approval through an order that is materially different in substance from this Settlement Agreement; (ii) the Final Approval Order and Final Judgment do not become final by reason of a higher court reversing Final Approval by the Court, and the Court thereafter declines to enter a further order or orders approving the Settlement on the terms set forth herein; or (iii) the Effective Date cannot occur.

9.3 In the event that the Settlement or the releases are not approved by the Court or the Settlement set forth in the Agreement is terminated in accordance with its terms: (i) the Parties shall be restored to their respective positions in the Action and shall jointly request that all

scheduled litigation deadlines be reasonably extended by the Court so as to avoid prejudice to any Party or Party's counsel; (ii) the terms and provisions of the Settlement shall have no further force and effect with respect to the Parties and shall not be used in the Action or in any other proceeding for any purpose, and (iii) any judgment or order entered by the Court in accordance with the terms of the Settlement Agreement shall be treated as vacated, *nunc pro tunc*. Notwithstanding any statement in the Agreement to the contrary, no order of the Court or modification or reversal on appeal of any order reducing the amount of attorneys' fees and costs shall constitute grounds for cancellation or termination of the Settlement. Further, notwithstanding any statement in the Agreement to the contrary, Mulkay shall be obligated to pay amounts already billed or incurred for Settlement Administration Costs, and shall not, at any time, seek recovery of same from any other party to the Action or from counsel to any other party to the Action.

10. Miscellaneous Provisions

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

10.2 The Parties intend this Settlement to be a final and complete resolution of all disputes between them with respect to the Action. The Settlement compromises claims that are contested and shall not be deemed an admission by any Party as to the merits of any claim or defense. The Parties each agree that the Settlement was negotiated in good faith by the Parties and reflects a settlement that was reached voluntarily after consultation with competent legal counsel. The Parties reserve their right to rebut, in a manner that such party determines to be appropriate, any contention made in any public forum that the Action was brought or defended in bad faith or

without a reasonable basis. It is agreed that no Party shall have any liability to any other Party as it relates to the Action, except as set forth in the Agreement.

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

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

10.5 The Agreement contains the entire understanding between Mulkay and Plaintiffs regarding the Action and supersedes all previous negotiations, agreements, commitments, understandings, and writings between Mulkay and Plaintiffs in connection with the Action. Except as otherwise provided herein, each Party shall bear its own costs. Any agreements reached between Mulkay, Plaintiffs, and any third party, are expressly excluded from this provision.

10.6 Class Counsel, on behalf of the Settlement Class, are expressly authorized by Plaintiffs to take all appropriate actions required or permitted to be taken by the Settlement Class pursuant to the Agreement to effectuate its terms, and also are expressly authorized to enter into

any modifications or amendments to the Settlement on behalf of the Settlement Class which they deem appropriate in order to carry out the spirit of this Settlement and to ensure fairness to the Settlement Class.

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

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

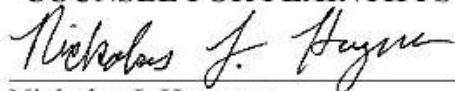
10.9 The Settlement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto. No assignment of this Agreement will be valid without the other party's prior, written permission.

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

10.11 All agreements made and orders entered during the course of the Action relating to the confidentiality of information shall survive this Agreement.

IN WITNESS WHEREOF, the parties hereto enter into this Agreement on _____, 2024.

COUNSEL FOR PLAINTIFFS



Nickolas J. Hagman

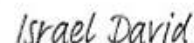
**CAFFERTY CLOBES MERIWETHER
& SPRENGEL LLP**

Kevin Laukaitis

LAUKAITIS LAW LLC

Tyler J. Bean

SIRI & GLIMSTAD LLP

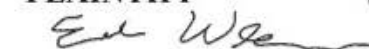


Israel David

ISRAEL DAVID LLC

Proposed Settlement Class Counsel

PLAINTIFF

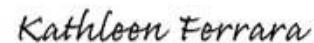


EARL WILKINS

PLAINTIFF

JANE DOE

PLAINTIFF



KATHLEEN FERRARA

PLAINTIFF

ANTOINETTE SCANDARIATO

**COUNSEL FOR MULKAY
CARDIOLOGY CONSULTANTS AT
HOLY NAME MEDICAL CENTER,
P.C. AND MULKAY CARDIOLOGY
CONSULTANTS, P.C.**

Timothy J. Lowe

MCDONALD HOPKINS PLC

Counsel for Defendants

*Mulkay Cardiology Consultants at Holy
Name Medical Center, P.C. and Mulkay
Cardiology Consultants, P.C.*

**MULKAY CARDIOLOGY
CONSULTANTS AT HOLY NAME
MEDICAL CENTER, P.C. AND
MULKAY CARDIOLOGY
CONSULTANTS, P.C.**


By:

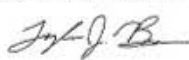
Title: _____

IN WITNESS WHEREOF, the parties hereto enter into this Agreement on _____, 2024.

COUNSEL FOR PLAINTIFFS

Nickolas J. Hagman
**CAFFERTY CLOBES MERIWETHER
& SPRENGEL LLP**


Kevin Laukaitis
LAUKAITIS LAW LLC


Tyler J. Bean
SIRI & GLIMSTAD LLP

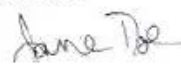
Israel David
ISRAEL DAVID LLC

Proposed Settlement Class Counsel

PLAINTIFF

EARL WILKINS

PLAINTIFF


JANE DOE

PLAINTIFF

KATHLEEN FERRARA

PLAINTIFF


ANTOINETTE SCANDARIATO

**COUNSEL FOR MULKAY
CARDIOLOGY CONSULTANTS AT
HOLY NAME MEDICAL CENTER,
P.C. AND MULKAY CARDIOLOGY
CONSULTANTS, P.C.**

Timothy J. Lowe
MCDONALD HOPKINS PLC

*Counsel for Defendants
Mulkay Cardiology Consultants at Holy
Name Medical Center, P.C. and Mulkay
Cardiology Consultants, P.C.*

**MULKAY CARDIOLOGY
CONSULTANTS AT HOLY NAME
MEDICAL CENTER, P.C. AND
MULKAY CARDIOLOGY
CONSULTANTS, P.C.**

By: _____

Title: _____

IN WITNESS WHEREOF, the parties hereto enter into this Agreement on _____, 2024.

COUNSEL FOR PLAINTIFFS

Nickolas J. Hagman
**CAFFERTY CLOBES MERIWETHER
& SPRENGEL LLP**

Kevin Laukaitis
LAUKAITIS LAW LLC

Tyler J. Bean
SIRI & GLIMSTAD LLP

Israel David
ISRAEL DAVID LLC

Proposed Settlement Class Counsel

PLAINTIFF

EARL WILKINS

PLAINTIFF

JANE DOE

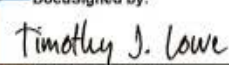
PLAINTIFF

KATHLEEN FERRARA

PLAINTIFF

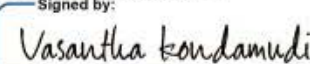
ANTOINETTE SCANDARIATO

**COUNSEL FOR MULKAY
CARDIOLOGY CONSULTANTS AT
HOLY NAME MEDICAL CENTER,
P.C. AND MULKAY CARDIOLOGY
CONSULTANTS, P.C.**

DocuSigned by:

70DAC1884025495
Timothy J. Lowe
MCDONALD HOPKINS PLC

*Counsel for Defendants
Mulkay Cardiology Consultants at Holy
Name Medical Center, P.C. and Mulkay
Cardiology Consultants, P.C.*

**MULKAY CARDIOLOGY
CONSULTANTS AT HOLY NAME
MEDICAL CENTER, P.C. AND
MULKAY CARDIOLOGY
CONSULTANTS, P.C.**

Signed by:

229BC8303238429...
Vasantha Kondamudi

By: _____

Title: EVP, Chief Medical Officer

EXHIBIT 1

*Wilkins et al. v Mulkay Cardiology
Consultants at Holy Name Medical
Center, P.C. and Mulkay Cardiology
Consultants, P.C.*

Case No. BER-L-006203-23

**If you received notice from Mulkay
Cardiology Consultants indicating
that your private information may
have been impacted in a data
breach, a proposed class action
settlement may affect your rights.**

For more information about the
proposed settlement, including how to
submit a claim, exclude yourself, or
submit an objection, please visit

[Website URL]

or call toll-free **1-XXX-XXX-XXXX**

*The Superior Court of New Jersey
authorized this Notice.*

This is not a solicitation from a lawyer.

*Mulkay Cardiology Data Breach
Settlement c/o Settlement Administrator*

P.O. Box

City, ST

First-Class
Mail
US Postage
Paid
Permit #__

«Barcode»

Postal Service: Please do not mark barcode

Claim #: **XXX- «ClaimID» - «MailRec»**

«First1» «Last1»

«Addr1» «Addr2»

«City», «St» «Zip»

«Country»

Why am I receiving this notice? You are receiving this Notice because Mulkay Cardiology Consultants at Holy Name Medical Center, P.C. and Mulkay Cardiology Consultants, P.C. ("Mulkay" or "Defendants") records show that your Private Information may have been compromised. When, between September 1, 2023 and September 5, 2023, an unknown and unauthorized criminal actor gained access to Mulkay's network and exfiltrated current and former patients' Private Information, including but not limited to social security numbers and health information that Mulkay collected and maintained (the "Data Incident"). If you were impacted by the Data Incident, or received notice from Mulkay indicating that your Private Information may have been impacted by the Data Incident, you are included in the Settlement Class and eligible to receive benefits under this class action settlement.

Settlement Class Member Benefits: Under the Settlement, Mulkay will implement various information security improvements, and has agreed to pay for the following benefits if you submit a valid claim by **[Deadline]**:

- Reimbursement of documented Out-of-Pocket Expenses—up to \$500 per Settlement Class Member
- Reimbursement of documented actual losses incurred as a result of the Data Incident—up to \$5,000 per Settlement Class Member
- Reimbursement of Lost Time—up to 3 hours at \$25/hour (for a maximum total of \$75) with attestation.
- An alternative cash payment of \$48 instead of the documented expenses and lost time listed above.
- Credit monitoring and identity theft insurance (no deductible) for two years.

How do I Submit a Claim Form? You must submit a Claim Form, available at **[Website URL]**, to receive a Settlement benefit. Your Claim Form must be **submitted online, or mailed and postmarked to the Settlement Administrator, by no later than [Deadline]**.

What are my other options? If you **Do Nothing**, you receive no benefits, but will be legally bound by the terms of the Settlement, and you will release your claims against the Released Parties, including Mulkay. If you do not want to be legally bound by the Settlement, you must submit a written request for exclusion ("**Opt-Out**") no later than **[Deadline]**. If you do not opt out of the Settlement, you can **Object** to the Settlement no later than **[Deadline]**.

Do I have a Lawyer in this Case? The Court appointed Nickolas Hagman of Cafferty Globes Meriwether & Sprengel LLP, Kevin Laukaitis of Laukaitis Law, Tyler Bean of Siri & Glimstad LLP, and Israel David of Israel David LLC as Class Counsel to represent the Settlement Class. Class Counsel will seek Court approval for attorneys' fees and costs (up to \$300,000), to be paid separately by Mulkay. If you want to be represented by your own lawyer, you may hire one at your own expense.

The Court's Final Approval Hearing. The Court will hold a Final Approval Hearing on **[DATE]**, to consider whether to approve the Settlement, attorneys' fees and costs, and Service Awards, and will consider any objections. You or your lawyer may ask to speak at the hearing at your own cost, but you don't have to.

THIS NOTICE IS ONLY A SUMMARY.

— VISIT **[Website URL]**, OR CALL **XXX-XXX-XXXX**, FOR COMPLETE INFORMATION —

EXHIBIT 2

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Wilkins et al v. Mulkay Cardiology Consultants at Holy Name Medical Center, P.C. and Mulkay Cardiology Consultants, P.C.

Case No. BER-L-006203-23

Superior Court of New Jersey- Bergen County Law Division

IF YOU RECEIVED NOTICE FROM MULKAY CARDIOLOGY INDICATING THAT YOUR PRIVATE INFORMATION MAY HAVE BEEN IMPACTED IN A DATA BREACH, A PROPOSED CLASS ACTION SETTLEMENT MAY AFFECT YOUR RIGHTS

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 proposed Settlement has been reached with Mulkay Cardiology Consultants at Holy Name Medical Center, P.C. and Mulkay Cardiology Consultants, P.C. ("Mulkay" or "Defendants"), in a class action lawsuit concerning the unauthorized access to Defendants' computer systems that occurred between September 1 and September 5, 2023 (the "Data Incident"), in which certain files that contained personal information were accessed. The information included names, Social Security numbers, and health insurance information ("Private Information" or "PI").
- The lawsuit is captioned *Wilkins et al. v. Mulkay Cardiology Consultants at Holy Name Medical Center, P.C. and Mulkay Cardiology Consultants, P.C.*, Case No. BER-L-006203-23, currently pending in the Superior Court of New Jersey, Bergen County Law Division (the "Action").
- Mulkay denies each and all of the claims and contentions alleged against it in the Action and denies all charges of wrongdoing or liability alleged (or which could be alleged) in the Action but has agreed to the Settlement to avoid the costs and risks associated with continuing the litigation.
- You are included in the Settlement Class if you were impacted by the Data Incident. You may have already been notified of the Data Incident directly by Mulkay in or around November 2023.
- 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 from this Settlement is by submitting a valid, complete, and timely Claim Form.</p> <p>You can submit your Claim Form online at [Website URL], or 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. The Settlement Website will remain active from the beginning of the Claims Period until 180 days following Final Approval of the Settlement.</p>	[Redacted], 2024
OPT OUT OF THE SETTLEMENT	You can choose to opt out of the Settlement and receive no benefits from this Settlement. 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 legal counsel at your own expense.	[Redacted], 2024
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], 2024
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 from this Settlement and you will give up the right to sue, continue to sue, or be part of another lawsuit against the Defendants related to the legal claims resolved by this Settlement.	No Deadline

- These rights and options—and the deadlines to exercise them—are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the Settlement.

WHAT THIS NOTICE CONTAINS

BASIC INFORMATION	3
WHO IS IN THE SETTLEMENT	4
THE SETTLEMENT BENEFITS	5
SUBMITTING A CLAIM FORM FOR SETTLEMENT BENEFITS	6
THE LAWYERS REPRESENTING YOU	7
EXCLUDING YOURSELF FROM THE SETTLEMENT	7
COMMENTING ON OR OBJECTING TO THE SETTLEMENT	8
THE COURT'S FINAL APPROVAL HEARING	9
IF I DO NOTHING	10
GETTING MORE INFORMATION	10

Basic Information

1. Why was this Notice issued?

The New Jersey Superior Court - Bergen County Law Division authorized this Notice because 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 captioned *Wilkins et al. v. Mulkay Cardiology Consultants at Holy Name Medical Center, P.C. and Mulkay Cardiology Consultants P.C.*, Case No. BER-L-006203-23. The persons who filed this lawsuit, *Earl Wilkins, Jane Doe, Kathleen Ferrara, and Antoinette Scandariato*, are called the "Plaintiffs" or "Class Representatives" and the Mulkay Cardiology entities they sued are called the "Defendants."

2. What is this lawsuit about?

This lawsuit alleges that private and sensitive information may have been impacted due to the unauthorized access to Defendants' computer systems on or between September 1 and September 5, 2023. The information affected, depending on the individual, included names, Social Security numbers, medical information, and health insurance 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 known as “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 a settlement. In this Settlement, the Class Representatives are Earl Wilkins, Jane Doe, Kathleen Ferrara, and Antoinette Scandariato, and everyone included in this Action are the Participating Settlement Class Members.

4. Why is there a Settlement?

The Plaintiffs and Defendants do not agree about the claims made in this Action. The Action has not gone to trial, and the Court did not decide in favor of the Plaintiffs or Defendants. Instead, Plaintiffs and Defendants have agreed to a Settlement to avoid the costs and risks of a trial, and to allow the Participating Settlement Class Members to receive benefits from the Settlement. The Plaintiffs and their attorneys think the Settlement is best for all Participating Settlement Class Members. The Settlement does not mean that any law was broken or that Defendants did anything wrong.

Who is in the Settlement?

5. Who is included in the Settlement?

If you received a mailed notice of this Settlement, you have been identified as a member of the Settlement Class and included in the Settlement. More specifically, the Settlement Class includes all 79,852 individuals in the United States who were impacted by the Data Incident, including all who were sent a notice of the Data Incident that occurred on or between September 1, 2023, and September 5, 2023.

6. Are there exceptions to being included?

Yes. Excluded from the Settlement Class are: (i) all persons who are employees, directors, officers, and agents of Mulkay; (ii) any judge assigned to the Action and to evaluate the fairness, reasonableness, and adequacy of this Settlement, and that judge's immediate family and Court staff; and (iii) any other Person found by a court of competent jurisdiction to be guilty under criminal law of perpetrating, aiding, or abetting the occurrence of the Data Incident or who pleads *nolo contendere* to any such charge.

If you are not sure whether you are included in the Settlement Class, you can ask for free help by emailing or writing to Settlement Administrator at:

[email address]

Mulkay Data Incident Settlement, c/o Settlement Administrator, [PO Box Address].

You may also view the Settlement Agreement at [Website URL].

The Settlement Benefits

7. What does the Settlement provide?

The Settlement provides the following Settlement Class Member Benefits. You are not limited to one benefit. If you are eligible for multiple benefits, as described below, you may file a claim for each of them.

Documented Out-of-Pocket Expenses Incurred as a Result of the Data Incident. Participating Settlement Class Members who submit a Valid Claim using the Claim Form, including providing necessary supporting documentation, are eligible to be reimbursed for any documented ordinary losses that were incurred as a result of the Data Incident ("Out-of-Pocket Expenses"), including but not limited to:

1. unreimbursed bank fees;
2. long distance phone charges;
3. cell phone charges (only if charged by the minute);
4. data charges (only if charged based on the amount of data used);
5. postage;
6. gasoline for local travel;
7. fees for credit reports, credit monitoring, or other identity theft insurance product purchased between September 1, 2023, and [DATE OF PRELIMINARY APPROVAL ORDER].

Reimbursement for Attested Lost Time. Participating Settlement Class Members are also eligible to receive reimbursement for up to three (3) hours of lost time spent dealing with the Data Incident (calculated at the rate of \$25.00 per hour) by attesting that they spent the claimed time responding to issues raised by the Data Incident ("Lost Time").

Cap for Out-of-pocket Expenses and Lost Time: The total amount validly claimed by each Participating Settlement Class Member for documented Out-of-Pocket Expenses and reimbursement of Lost Time may not exceed \$500.00 per Participating Settlement Class Member.

Compensation for Extraordinary Losses for a Victim of Actual Identity Theft. Participating Settlement Class Members who submit a Valid Claim using the Claim Form, including necessary supporting documentation, are eligible for up to \$5,000.00 per Settlement Class Member if:

1. the loss was an actual, documented, and unreimbursed monetary loss;
2. the loss was fairly traceable to the Data Incident;
3. the loss occurred between September 1, 2023, and [DATE OF PRELIMINARY APPROVAL ORDER];
4. the loss is not already covered by one or more of the normal reimbursement categories above; and

5. Participating Settlement Class Member made reasonable efforts to avoid the loss (this includes trying to get the loss reimbursed, and using any credit monitoring insurance or identity theft insurance that was available) ("Extraordinary Losses").

Alternative Cash Payment. In the alternative to the Out-of-Pocket Expenses, Lost Time, and Extraordinary Losses, Participating Settlement Class Members who submit a Valid Claim using the Claim Form may elect to receive a one-time payment of \$48, without the need to submit any documented losses or attest to time spend as a result of the Data Incident.

Identity Theft Protection and Credit Monitoring. Participating Settlement Class Members may also submit a Claim to accept two years of free credit monitoring services. The credit monitoring shall provide three-bureau monitoring for all Valid Claims and shall include:

1. Real time monitoring of credit file at all three bureaus;
2. Dark web scanning with immediate notification of potential unauthorized use;
3. Comprehensive public record monitoring;
4. Medical identity monitoring;
5. Identity theft insurance (with no deductible); and
6. Access to fraud resolution agents.

Participating Settlement Class Members will need to enroll to receive this benefit. Mulkay will pay for the credit monitoring services separate and apart from other Settlement benefits.

Information Security Improvements. In addition to cash payments and/or credit monitoring, Mulkay has improved its information security practices. Costs associated with these business practice commitments (injunctive relief) will be paid by Defendants separate and apart from other settlement benefits.

8. How much will my payment be?

Payments will vary depending on the Settlement Class Member Benefits selected and, for Out-of-Pocket expenses and Identity Theft losses, the supporting documentation provided.

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

Unless you opt out of the Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against the Defendants about any of the legal claims this Settlement resolves. The "Releases" section in the Settlement Agreement describes the legal claims that you give up if you remain in the Settlement Class. The Settlement Agreement is available for review at [\[Website URL\]](#).

Submitting a Claim Form for Settlement Benefits

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

Claim Forms may be submitted online at [Website URL] or printed from the website and mailed to the Settlement Administrator at: Mulkay Data Breach Settlement, c/o Settlement Administrator, [PO Box Address].

You may also contact the Settlement Administrator to request a Claim Form by telephone 1-XXX-XXX-XXXX, by email [Email Address], or by U.S. mail at the address above.

11. What is the deadline for submitting a claim?

If you submit a claim by U.S. mail, the completed and signed Claim Form, along with any supporting documentation, must be mailed so it is postmarked no later than [Deadline Date]. If submitting a Claim Form online, you must do so by [Deadline Date].

12. When will the Settlement benefits be issued?

The Court will hold a final approval hearing on [redacted], 2024. If the Court approves the Settlement, there may be appeals. It is always uncertain whether appeals will be filed and, if so, how long it will take to resolve them.

Settlement benefits will be distributed if the Court grants final approval of the Settlement and after any appeals are resolved, or after the period to seek an appeal has expired.

The Lawyers Representing You

13. Do I have a lawyer in the case?

Yes, the Court appointed Nickolas J. Hagman of Cafferty Clobes Meriwether & Sprengel LLP, Kevin Laukaitis of Laukaitis Law LLC, Tyler Bean of Siri & Glimstad LLP, and Israel David of Israel David LLC to represent you and other members of the Settlement Class ("Class Counsel").

14. Should I get my own lawyer?

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

15. How will Class Counsel and Class Representatives be paid?

Class Counsel will seek Court approval for attorneys' fees and costs not to exceed \$300,000.00. Class Counsel will further seek a Service Award not exceed \$1,000.00 for each of the Class Representatives.

Mulkay may oppose any request for attorneys' fees that exceed \$300,000.00 and Service Awards that exceed \$1,000.00, but shall pay any attorneys' fees and costs and Service Awards as ordered by the Court separate and apart from any Settlement Class Member Benefits provided to Participating Settlement Class Members and Settlement Administration Costs.

Excluding Yourself from the Settlement

16. How do I opt out of the Settlement?

If you do not want to receive any benefits from the Settlement, and you want to keep your right, if any, to separately sue Defendants about the legal issues in this case, there are steps that you must take to exclude yourself from the Settlement Class. This is called requesting an exclusion from, or "opting out" of the Settlement Class. The deadline to submit a request for exclusion from the Settlement is **[Opt-Out and Objection Deadline Date]**.

To exclude yourself from the Settlement, you must submit a written request for exclusion that includes the following information:

- the name of the Action: *Wilkins et al. v. Mulkay Cardiology Consultants at Holy Name Medical Center and Mulkay Cardiology Consultants, P.C.*, Case No. BER-L-006203-23, pending in the New Jersey Superior Court, Bergen County Law Division;
- your full name;
- your current address;
- your telephone number;
- your personal wet signature; and
- the words "Request for Exclusion" or a clear and similar statement that you do not wish to participate in the Settlement.

Your request for exclusion must be mailed to the Settlement Administrator at the address below, **postmarked no later than [Opt-Out and Objection Deadline Date]**.

Mulkay Data Breach Settlement
ATTN: Exclusion Request
[PO Box Address]

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. You may only exclude yourself— not any other person.

Commenting on or Objecting to the Settlement

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

If you are a Participating Settlement Class Member and do not like a portion or all of the Settlement, you can object to it, if you choose. You can give reasons why you think the Court should not approve it. The Court will consider your views.

For an objection to be considered by the Court, the objection must include:

1. your full name, address, telephone number, and e-mail address (if any);
2. information identifying you as a Settlement Class Member, including proof that you are a member of the Settlement Class (e.g., copy of notice, copy of original notice of the Data Incident);
3. a written statement of all grounds for the objection, accompanied by any legal support for the objection you believe is applicable;
4. the identity of any and all counsel representing you in connection with the objection;
5. a statement as to whether you and/or your counsel will appear at the Final Fairness Hearing;
6. your wet signature and the signature of your duly authorized attorney or other duly authorized representative, if any (along with documentation setting forth such representation); and
7. a list, by case name, court, and docket number, of all other cases in which you and/or your counsel has filed an objection to any proposed class action settlement within the last three years.

To be timely, a written notice of an objection containing the above information must be filed with the Clerk of the Court and contain the case name and docket number, with copies served on Class Counsel and counsel for Mulkay no later than **[Opt-Out and Objection Deadline Date]**.

Clerk of the Court	Class Counsel	Counsel for Mulkay
[Court Address]	Nickolas J. Hagman Cafferty Clobes Meriwether & Sprengel LLP 135 S. LaSalle St., Ste. 3210 Chicago, IL 60603 Tyler J. Bean Siri & Glimstad, LLP 745 Fifth Av, Ste. 500 New York, New York 10151	Timothy J. Lowe McDonald Hopkins PLC 39533 Woodward Ave., Ste. 318 Bloomfield Hills, Michigan 48304

Any Participating Settlement Class Member who fails to strictly comply with the requirements for objecting shall waive and forfeit any and all rights they may have to appear separately and/or to object to the Settlement, and shall be bound by all the terms of the Settlement and by all proceedings, orders and judgments in the Litigation.

18. What is the difference between objecting and excluding?

Objecting is telling the Court that you do not like something about the Settlement. You can object to the Settlement only if you do not exclude yourself from the Settlement. Excluding yourself from the Settlement is opting out and stating to the Court that you do not want to be part of the Settlement. If you opt out of the Settlement, you cannot object to it because the Settlement no longer affects you.

The Court's Final Approval Hearing

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

The Court will hold a final approval hearing on _____, 2025 at _____ a.m./p.m. E.T., at the [Court Address] in Courtroom _____.

At the final approval hearing, the Court will consider whether to approve the Settlement, how much attorneys' fees and costs to award to Class Counsel for representing the Settlement Class, and whether to award a Service Award to each of the Class Representatives who brought this Action on behalf of the Settlement Class. The Court will also consider any objections to the Settlement.

If you are a Settlement Class Member, you or your attorney may ask permission to speak at the hearing at your own cost (**See Question 17**).

The date and time of this hearing may change without further notice. Please check [Website URL] for updates.

20. 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. If you file an objection, you do not have to come to the Final Approval Hearing to talk about it. If you file your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but such attendance is not necessary for the Court to consider an objection that was filed on time.

If I Do Nothing

21. What happens if I do nothing at all?

If you are a Settlement Class Member and you do nothing, you will give up the rights described in **Question 9**, including your right to start a lawsuit, continue a lawsuit, or be part of any other lawsuit against the Defendants and the Released Parties about the legal issues resolved by this Settlement. In addition, if you do nothing, you will not receive a payment or credit monitoring from this Settlement.

Getting More Information

22. How do I get more information?

This Notice summarizes the proposed Settlement. Complete details are provided in the Settlement Agreement. The Settlement Agreement and other related documents are available at the Settlement Website, [Website URL].

If you have additional questions, you may contact the Settlement Administrator by email, phone, or mail:

Email: [Email Address]

Toll-Free: 1-XXX-XXX-XXXX

Mail: Mulkay Data Breach Settlement, c/o Settlement Administrator, [PO Box Address]

Publicly filed documents can also be obtained by visiting the office of the Clerk of Court for the Superior Court of New Jersey- Bergen County Law Division.

EXHIBIT 3

Your claim
must be
submitted
online or
postmarked
by:
[DEADLINE]

*Wilkins et al. v. Mulkay Cardiology Consultants at Holy Name
Medical Center P.C. and Mulkay Cardiology Consultants, P.C.*
Case No. BER-L-006203-23
New Jersey Superior Court, Bergen County Law Division

MULKAY DATA BREACH SETTLEMENT CLAIM FORM

Your claim
must be
submitted
online or
postmarked
by:
[DEADLINE]

GENERAL INSTRUCTIONS

If you are a part of the Settlement Class you may use this form to make a claim for reimbursement for documented out-of-pocket expenses, attested lost time, and/or extraordinary losses, as well as enroll in free credit monitoring services.

The **Settlement Class** includes: All individuals in the United States who were impacted by the Data Incident, including all who were sent a notice of the Data Incident that occurred on or around September 1 to September 5, 2023.

Data Incident means the data security incident that occurred between September 1, 2023 and September 5, 2023, whereby an unknown and unauthorized criminal actor gained access to Mulkay's network and accessed certain current and former patients' Private Information that Mulkay collected and maintained.

Private Information means the information potentially accessed during the Data Incident, including individual names, Social Security numbers, and medical information.

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

AVAILABLE BENEFITS

You are not limited to one benefit. If you are eligible for multiple benefits, as described below, you may file a claim for each of them.

Documented Out-of-Pocket Expenses Incurred as a Result of the Data Incident. All Participating Settlement Class Members who submit a Valid Claim using the Claim Form, including providing necessary supporting documentation, are eligible to be reimbursed for any documented ordinary losses that were incurred as a result of the Data Incident, including but not limited to: (i) unreimbursed bank fees; (ii) long distance phone charges; (iii) cell phone charges (only if charged by the minute); (iv) data charges (only if charged based on the amount of data used); (v) postage; (vi) gasoline for local travel; and (vii) fees for credit reports, credit monitoring, or other identity theft insurance product purchased between September 1, 2023 and **[PRELIMINARY APPROVAL ORDER DATE]** ("Out-of-Pocket Expenses"). To receive reimbursement for Out-of-Pocket Expenses, Participating Settlement Class Members must submit documentation supporting their claims, to the Settlement Administrator.

Reimbursement for Attested Lost Time. Participating Settlement Class Members are also eligible to receive reimbursement for up to three (3) hours of lost time spent dealing with the Data Incident (calculated at the rate of \$25.00 per hour). Participating Settlement Class Members may receive up to three (3) hours

QUESTIONS? VISIT WWW.SETTLEMENTCLAIMFORM.COM OR CALL TOLL-FREE 1-XXX-XXX-XXXX

**Your claim
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online or
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by:
[DEADLINE]**

*Wilkins et al. v. Mulkay Cardiology Consultants at Holy Name
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Case No. BER-L-006203-23
New Jersey Superior Court, Bergen County Law Division

MULKAY DATA BREACH SETTLEMENT CLAIM FORM

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by:
[DEADLINE]**

of lost time if the Participating Settlement Class Member attests that any claimed lost time was spent responding to issues raised by the Data Incident ("Lost Time").

The total amount validly claimed by each Participating Settlement Class Member for documented Out-of-Pocket Expenses, Lost Time, and Additional Lost Time may not exceed \$500.00 per Participating Settlement Class Member.

Compensation for Extraordinary Losses for a Victim of Actual Identity Theft. Participating Settlement Class Members are eligible for the following compensation for actual identity theft, not to exceed \$5,000.00 per Participating Settlement Class Member, for proven monetary losses as a result of actual identity theft if: (i) the loss was an actual, documented, and unreimbursed monetary loss; (ii) the loss was directly related to the Data Incident; (iii) the loss occurred between September 1, 2023 and [PRELIMINARY APPROVAL ORDER DATE]; (iv) the loss is not already covered by one of the documented Out-of-Pocket Expenses categories; and (v) the Participating Settlement Class Member made reasonable efforts to avoid, or seek reimbursement for, the loss, including, but not limited to, exhaustion of all available credit monitoring insurance and identity theft insurance ("Extraordinary Losses").

Alternative Cash Payment. In the alternative to the Out-of-Pocket Expenses, Lost Time, and Extraordinary Losses, Participating Settlement Class Members may elect to receive a one-time payment of \$48, without the need to submit any documented losses or attest to time spend as a result of the Data Incident.

Identity Theft Protection and Credit Monitoring. Participating Settlement Class Members may also submit a Claim to accept two years of free credit monitoring services. The services shall provide three-bureau monitoring and shall include: (i) real time monitoring of credit file at all three bureaus; (ii) dark web scanning with immediate notification of potential unauthorized use; (iii) comprehensive public record monitoring; (iv) medical identity monitoring; (v) identity theft insurance (with no deductible); and (vi) access to fraud resolution agents.

Settlement Class Members will need to enroll to receive this benefit. Mulkay will pay for the credit monitoring services separate and apart from other Settlement benefits.

THE EASIEST WAY TO SUBMIT YOUR CLAIMS IS ONLINE AT [WEBSITE URL].

You may also print out and complete this Claim Form, and submit it by U.S. mail to: Mulkay Data Breach Settlement, c/o Settlement Administrator, [PO Box Address]. An electronic image of the completed Claim Form can also be submitted by email to [email address].

The deadline to submit a Claim Form online is [DEADLINE]. If you are mailing your Claim Form, it must be mailed with a postmark date no later than [DEADLINE].

QUESTIONS? VISIT WWW._____.COM OR CALL TOLL-FREE 1-XXX-XXX-XXXX

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MULKAY DATA BREACH SETTLEMENT CLAIM FORM

Your claim
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online or
postmarked
by:
[DEADLINE]

I. SETTLEMENT CLASS MEMBER NAME AND CONTACT INFORMATION

Provide your name and contact information below. You must notify the Settlement Administrator if your contact information changes after you submit this claim form.

First Name

Last Name

Street Address

City

State

Zip Code

Email Address

Phone Number

Notice ID (if known)

II. ALTERNATIVE CASH PAYMENT

- ☐ Check the box if you wish to receive a one-time Alternative Cash Payment of \$48. The cash payment in this category is in lieu of seeking reimbursement for Out-of-Pocket Expenses, Lost Time, and Extraordinary Losses.

If you check the box to receive the Alternative Cash Payment, please proceed to Section VI below.

III. DOCUMENTED OUT-OF-POCKET EXPENSES (UP TO \$500.00)

- ☐ Check this box if you are seeking reimbursement for **documented** Out-of-Pocket Expenses that were incurred as a result of the Data Incident. You **must** (i) fill out the information below and/or on a separate sheet submitted with this Claim form; (ii) submit supporting documentation demonstrating the actual, unreimbursed expenses you are seeking reimbursement for; and (iii) sign the attestation at the end of this Claim Form (section VI).

Complete the chart below describing the supporting documentation you are submitting.

Cost Type & Date	Description of Documentation Provided	Amount
Example: unreimbursed bank fees, phone and/or data charges, postage, gasoline for local travel, fees for credit reports and/or monitoring product	Example: Statement demonstrating unreimbursed bank fees	\$XX.00

QUESTIONS? VISIT WWW.MULKEYDATA.COM OR CALL TOLL-FREE 1-XXX-XXX-XXXX

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by:
[DEADLINE]**

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MULKAY DATA BREACH SETTLEMENT CLAIM FORM

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by:
[DEADLINE]**

<i>purchased between September 1, 2023 and [DEADLINE]</i>		
	TOTAL OUT-OF-POCKET EXPENSES:	

IV. DOCUMENTED EXTRAORDINARY LOSSES (UP TO \$5,000.00)

- ☐ Check this box if you are seeking reimbursement for **actual, documented** Extraordinary Losses that were incurred as a result of the Data Incident. You **must** (i) fill out the information below and/or on a separate sheet submitted with this Claim form; (ii) submit supporting documentation demonstrating the actual, unreimbursed expenses you are seeking reimbursement for; and (iii) sign the attestation at the end of this Claim Form (section VI).

Complete the chart below describing the supporting documentation you are submitting.

Cost Type & Date	Description of Documentation Provided	Amount
<i>Example: Monetary loss as a result of actual identity theft that occurred between September 1, 2023 and [DEADLINE]</i>	<i>Example: Unauthorized tax returns filed using the Social Security Number compromised in the Data Incident where the IRS mailed your return to an unauthorized address.</i>	<i>\$XX.00</i>
	TOTAL EXTRAORDINARY LOSSES:	

QUESTIONS? VISIT WWW._____.COM OR CALL TOLL-FREE 1-XXX-XXX-XXXX

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MULKAY DATA BREACH SETTLEMENT CLAIM FORM

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by:
[DEADLINE]

V. REIMBURSEMENT FOR ATTESTED LOST TIME (UP TO \$75)

- ☐ Check this box if are seeking reimbursement for Lost Time spent dealing with the Data Incident. By checking this box, you are hereby attesting that the lost time claimed below was spent responding to issues raised by the Data Incident.

Indicate the number of hours spent: ☐ 1 Hour ☐ 2 Hours ☐ 3 Hours

VI. CREDIT MONITORING SERVICES

- ☐ Check this box if you wish to accept two years of free credit monitoring services or one additional year for Class Members who already enrolled in Mulkay's previous offer for one year of credit monitoring services. You must provide a valid email address in Section I to receive instructions for how to enroll in credit monitoring services.

VII. PAYMENT SELECTION

Please select **one** of the following payment options if you are seeking reimbursement under Sections II or III above.

- ☐ **PayPal** - Enter your PayPal email address:

- ☐ **Venmo** - Enter the mobile number associated with your Venmo account: _____ - _____ - _____

- ☐ **Zelle** - Enter the mobile number or email address associated with your Zelle account:

Mobile Number: _____ - _____ - _____ or Email Address:

- ☐ **Virtual Prepaid Card** - Enter your email address: _____

- ☐ **Physical Check** - Payment will be mailed to the address provided in Section I above.

QUESTIONS? VISIT WWW.BERGENCOUNTYJUDICIALSYSTEM.COM OR CALL TOLL-FREE 1-XXX-XXX-XXXX

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MULKAY DATA BREACH SETTLEMENT CLAIM FORM

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IX. ATTESTATION & SIGNATURE

I swear and affirm that the information provided in this Claim Form, and any supporting documentation provided, 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

QUESTIONS? VISIT WWW.SETTLEMENTADMINISTRATOR.COM OR CALL TOLL-FREE 1-XXX-XXX-XXXX

EXHIBIT 4

EARL WILKINS, JANE DOE, KATHLEEN
FERRARA, and ANTOINETTE
SCANDARIATO, *et al.*,

Plaintiffs,

v.

MULKAY CARDIOLOGY
CONSULTANTS AT HOLY NAME
MEDICAL CENTER, P.C. and MULKAY
CARDIOLOGY CONSULTANTS, P.C.

Defendants.

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION: BERGEN COUNTY

Docket No. BER-L-006203-23

[PROPOSED] PRELIMINARY APPROVAL ORDER

Before the Court is Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement (the "Motion"), the terms of which are set forth in a Settlement Agreement between Plaintiffs and Defendants Mulkay Cardiology Consultants at Holy Name Medical Center, P.C. and Mulkay Cardiology Consultants, P.C. ("Mulkay" or "Defendants" and together with Plaintiffs, the "Parties"). The Settlement Agreement with accompanying exhibits is attached as **Exhibit A** to the Nickolas J. Hagman Declaration in Support of Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement (the "Settlement Agreement").¹

Having fully considered the issue, the Court hereby GRANTS the Motion and ORDERS as follows:

1. **Class Certification for Settlement Purposes Only.** The Settlement Agreement provides for a Settlement Class defined as follows:

¹ All capitalized terms not defined in this Order Granting Preliminary Approval of Class Action Settlement ("Preliminary Approval Order") have the same meaning as set forth in the Settlement Agreement, unless otherwise indicated.

All 79,582 individuals in the United States who were impacted by the Data Incident, including all who were sent a notice of the Data Incident that occurred on or around September 1, 2023 and September 5, 2023.

Excluded from the Settlement Class are (i) all persons who are employees, directors, officers, and agents of Mulkay; (ii) the judges assigned to the Action and to evaluate the fairness, reasonableness, and adequacy of this Settlement, and that judge's immediate family and Court staff; and (iii) any other Person found by a court of competent jurisdiction to be guilty under criminal law of perpetrating, aiding, or abetting the occurrence of the Data Incident or who pleads *nolo contendere* to any such charge.

Pursuant to New Jersey Court Rules 4:32-1(a), (b)(1), (b)(2), and (b)(3), the Court finds that giving notice is justified. The Court finds that it will likely be able to approve the proposed Settlement as fair, reasonable, and adequate. The Court also finds that it will likely be able to certify the Settlement Class for purposes of judgment on the Settlement because it meets all of the requirements of New Jersey Court Rules 4:32-1(a), (b)(1), (b)(2), and (b)(3). Specifically, the Court finds for settlement purposes that it is likely to find: (a) the Settlement Class is so numerous that joinder of all Settlement Class Members would be impracticable; (b) there are issues of law and fact that are common to the Settlement Class; (c) the claims of the Class Representatives are typical of and arise from the same operative facts and the Class Representatives seek similar relief as the claims of the Settlement Class Members; (d) the Class Representatives will fairly and adequately protect the interests of the Settlement Class as the Class Representatives have no interests antagonistic to or in conflict with the Settlement Class and has retained experienced and competent counsel to prosecute this Action on behalf of the Settlement Class; (e) questions of law or fact common to Settlement Class Members predominate over any questions affecting only individual members; and (f) a class action and class settlement is superior to other methods available for a fair and efficient resolution of this Litigation.

2. Proposed Settlement Class Representatives and Settlement Class

Counsel. The Court finds that Plaintiffs Earl Wilkins, Jane Doe, Kathleen Ferrara, and Antoinette Scandariato will likely satisfy the requirements of New Jersey Court Rules 4:32-1(a), (b)(1), (b)(2), and (b)(3), and should be appointed as the Class Representatives. Additionally, the Court finds that Nickolas J. Hagman of Cafferty Clobes Meriwether & Sprengel LLP, Kevin Laukaitis of Laukaitis Law LLC, Tyler Bean of Siri & Glimstad LLP, and Israel David of Israel David LLC will likely satisfy the requirements of New Jersey Court Rules 4:32-1(a), (b)(1), (b)(2), and (b)(3) and should be appointed as Class Counsel pursuant to New Jersey Court Rules 4:32-1(a), (b)(1), (b)(2), and (b)(3).

3. Preliminary Settlement Approval.

Upon preliminary review, the Court finds the Settlement is fair, reasonable, and adequate to warrant providing notice of the Settlement to the Settlement Class and accordingly is preliminarily approved. In making this determination, the Court has considered the monetary and non-monetary benefits provided to the Settlement Class through the Settlement, the specific risks faced by the Settlement Class in prevailing on their claims, the good faith, arms'-length negotiations between the Parties and absence of any collusion in the Settlement, the effectiveness of the proposed method for distributing relief to the Settlement Class, the proposed manner of allocating benefits to Participating Settlement Class Members, the Settlement treats the Participating Settlement Class Members equitably, and all of the other factors required by New Jersey Court Rules 4:32 and relevant case law.

4. Jurisdiction.

The Court has subject matter jurisdiction pursuant to N.J. Const., Art. VI, Sec III, ¶ 2 and personal jurisdiction over the parties before it. Additionally, venue is proper in this Court pursuant to N.J. Ct. R. 4:3-2(b).

5. **Final Approval Hearing.** A Final Approval Hearing shall be held on _____, 202_, at the Bergen County Justice Center 10 Main Street, Hackensack, NJ 07601, where the Court will determine, among other things, whether: (a) this Litigation should be finally certified as a class action for settlement purposes pursuant to New Jersey Court Rules 4:32-1(a), (b)(1), (b)(2), and (b)(3); (b) the Settlement should be approved as fair, reasonable, and adequate, and finally approved pursuant to New Jersey Court Rules 4:32-1(a), (b)(1), (b)(2), and (b)(3); (c) this Action should be dismissed with prejudice pursuant to the terms of the Settlement Agreement; (d) Participating Settlement Class Members (who have not timely and validly excluded themselves from the Settlement) should be bound by the releases set forth in the Settlement Agreement; and (e) the application of Class Counsel for an award of Attorneys' Fees and Service Awards and should be approved pursuant to New Jersey Court Rules 4:32-1(a), (b)(1), (b)(2), and (b)(3).

6. **Settlement Administrator.** The Court appoints [INSERT ADMINISTRATOR] as the Settlement Administrator, with responsibility for class notice and settlement administration. The Settlement Administrator is directed to perform all tasks the Settlement Agreement requires. The Settlement Administrator's fees will be paid pursuant to the terms of the Settlement Agreement.

7. **Notice.** The proposed Notice Program set forth in the Settlement Agreement and Claim Form and the Notices attached to the Settlement Agreement as **Exhibits 1, 2, and 3** are hereby approved. Non-material modifications to these Exhibits may be made by the Settlement Administrator in consultation and agreement with the Parties, but without further order of the Court.

8. **Findings Concerning Notice.** The Court finds that the proposed form, content, and method of giving Notice to the Settlement Class as described in the Notice Program and the Settlement Agreement and its exhibits (a) will constitute the best practicable notice to the Settlement Class; (b) are reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action, the terms of the proposed Settlement, and their rights under the proposed Settlement, including, but not limited to, their rights to object to or exclude themselves from the proposed Settlement and other rights under the terms of the Settlement Agreement; (c) are reasonable and constitute due, adequate, and sufficient notice to all Settlement Class Members and other persons entitled to receive notice; (d) meet all applicable requirements of law, including New Jersey Court Rules 4:32-1(c); and (e) meet the requirements of the Due Process Clause(s) of the United States and New Jersey Constitutions. The Court further finds that the Notice provided for in the Settlement Agreement is written in plain language, uses simple terminology, and is designed to be readily understandable by Settlement Class Members. The Settlement Administrator is directed to carry out the Notice Program in conformance with the Settlement Agreement.

9. **Exclusion from Class.** Any Settlement Class Member who wishes to be excluded from the Settlement Class must individually sign and timely submit written notice of such intent to the designated Post Office box established by the Settlement Administrator. The written notice must include:

- a) the name of the Action: *Wilkins et al. v. Mulkay cardiology Consultants at Holy Name Medical Center P.C. and Mulkay Cardiology Consultants, P.C.*, pending in Superior Court of New Jersey - Bergen County Law Division

- b) full name of the member of the Settlement Class;
- c) current address of the member of the Settlement Class;
- d) telephone number of the member of the Settlement Class;
- e) signature of the member of the Settlement Class; and
- f) the words “Request for Exclusion” or a clear and similar statement that the member of the Settlement Class does not wish to participate in the Settlement.

All signatures on opt-out notices shall be wet signatures to ensure authenticity of same. To be effective, such requests for exclusion must be postmarked no later than the Opt-Out Date, which is no later than the Opt-Out and Objection Deadline which shall be forty-five (45) days from the date on which the Notice Program commences.

A complete list of all Participating Settlement Class Members who submitted timely, valid exclusion requests (opt-outs) will be filed with the Court as part of the declaration or affidavit of the Settlement Administrator, at the same time that Plaintiffs file their Motion for Final Approval of the Class Action Settlement. The Court will permit the list to be anonymized, referring to the Settlement Class Members opting out by their unique Class Member IDs assigned to them by the Settlement Administrator in any public filings.

If a Final Order and Judgment is entered, all Persons falling within the definition of the Settlement Class who do not request to be excluded from the Settlement Class shall be bound by the terms of the Settlement Agreement and the Final Order and Judgment. All Persons who submit valid and timely notices of their intent to be excluded from the Settlement Class shall not receive any cash benefits of and/or be bound by the terms of the Settlement Agreement.

11. Objections and Appearances. A Participating Settlement Class Member (who does not submit a timely written request for exclusion) desiring to object to the Settlement Agreement may submit a timely written notice of his or her objection by the Opt-Out and Objection Deadline and as stated in the Notice. The Long Notice and the Settlement Website shall instruct Participating Settlement Class Members who wish to object to the Settlement Agreement to send their written objections to the Settlement Administrator at the address indicated in the Long Notice, and to the attorneys for the Parties at their addresses specified in the Notice. The Notice shall advise Participating Settlement Class Members of the deadline for submission of any objections—the “Opt-Out and Objection Deadline.” Any such notices of an intent to object to the Settlement Agreement must be written and must include:

- a) the objector’s full name, address, telephone number, and e-mail address (if any);
- b) information identifying the objector as a Participating Settlement Class Member, including proof that the objector is a member of the Settlement Class (i.e., copy of notice and a copy of original notice of the Data Incident);
- c) a written statement of all grounds for the objection, accompanied by any legal support for the objection and all evidence the objector believes applicable;
- d) the identity of any and all counsel representing the objector in connection with the objection;
- e) a statement as to whether the objector and/or his or her counsel will appear at the Final Approval Hearing;

- f) the objector's wet signature and the wet signature of the objector's duly authorized attorney or other duly authorized representative (along with documentation setting forth such representation); and
- g) a list, by case name, court, and docket number, of all other cases in which the objector has filed an objection to any proposed class action settlement within the last three years.

To be timely, written notice of an objection in the appropriate form must be filed with the Clerk of the Court and contain the case name and docket number, no later than the Opt-Out and Objection Deadline and served concurrently therewith on Class Counsel and counsel for Mulkay. An objecting Participating Settlement Class Member has the right, but is not required, to attend the Final Approval Hearing. Any objector or their counsel who intends to make an appearance at the Final Approval Hearing file with the Court and shall serve on Class Counsel and Mulkay's Counsel a notice of intention to appear at the Final Approval Hearing by no later than the Opt-Out and Objection Deadline.

Any Participating Settlement Class Member who fails to comply with the requirements for objecting shall waive and forfeit any and all rights he or she may have to appear separately and/or to object to the Settlement Agreement and shall be bound by all the terms of the Settlement Agreement and by all proceedings, orders, and judgments in the Action. The provisions stated in Section 5 of the Settlement Agreement be the exclusive means for any challenge to the Settlement Agreement. Any challenge to the Settlement Agreement, the final order approving this Settlement Agreement, or the Final Order and Judgment to be entered upon final approval shall be pursuant to appeal under the New Jersey Rules of Appellate Procedure and not through a collateral attack.

12. Claims Process. Settlement Class Counsel and Defendants have created a process for Participating Settlement Class Members to claim benefits under the Settlement. The Court preliminarily approves this process and directs the Settlement Administrator to make the Claim Form or its substantial equivalent available to Participating Settlement Class Members in the manner specified in the Notice. The Settlement Administrator will be responsible for effectuating the Claims Process. Participating Settlement Class Members who qualify for and wish to submit a Claim Form shall do so in accordance with the requirement and procedures specified in the Notice and the Claim Form. If the Final Order and Judgment is entered, all Participating Settlement Class Members who qualify for any benefit under the Settlement, but fail to submit a claim in accordance with the requirements and procedures specified in the Notice and the Claim Form, shall be forever barred from receiving any such benefit, but will in all other respects be subject to and bound by the provisions in the Final Order and Judgment, including the releases contained therein.

13. Termination of Settlement. This Preliminary Approval Order shall become null and void and shall be without prejudice to the rights of the Parties, all of whom shall be restored to their respective positions existing before the Court entered this Preliminary Approval Order and before they entered the Settlement Agreement, if: (a) the Court does not enter this Preliminary Approval Order; (b) Settlement is not finally approved by the Court or is terminated in accordance with the Settlement Agreement; (c) there is no Effective Date; or (d) otherwise consistent with the terms of the Settlement Agreement. In such event: (i) the Parties shall be restored to their respective positions in the Action and shall jointly request that all scheduled deadlines be reasonably extended by the Court so as to avoid prejudice to any Party or Party's counsel; (ii) the terms and provisions of the Settlement Agreement shall have no further force and

effect with respect to the Parties and shall not be used in the Action or in any other proceeding for any purpose, (iii) any judgment or order entered by the Court in accordance with the terms of the Settlement Agreement shall be treated as vacated, *nunc pro tunc*; and (iv) Mulkay shall be obligated to pay amounts already billed or incurred for costs of Notice to the Settlement Class, and Settlement Administration, and shall not, at any time, seek recovery of same from any other party to the Action or from counsel to any other party to the Action. Notwithstanding any statement in the Agreement to the contrary, no order of the Court or modification or reversal on appeal of any order reducing the amount of attorneys' fees and costs shall constitute grounds for cancellation or termination of the Settlement.

14. Use of Order. This Preliminary Approval Order shall be of no force or effect if the Final Order and Judgment is not entered or there is no Effective Date and shall not be construed or used as an admission, concession, or declaration by or against Defendants of any fault, wrongdoing, breach, or liability. Nor shall this Preliminary Approval Order be construed or used as an admission, concession, or declaration by or against the Class Representatives or any other Participating Settlement Class Member that his or her claims lack merit or that the relief requested is inappropriate, improper, unavailable, or as a waiver by any Party of any defense or claims they may have in this Action or in any other lawsuit.

15. Continuance of Hearing. The Court reserves the right to adjourn or continue the Final Approval Hearing and related deadlines without further written notice to the Settlement Class. If the Court alters any of those dates or times, the revised dates and times shall be posted on the Settlement Website maintained by the Settlement Administrator. The Court may approve the Settlement, with such modifications as may be agreed upon by the Parties, if appropriate, without further notice to the Settlement Class.

16. **Stay of Litigation.** All proceedings in the Litigation, other than those related to approval of the Settlement Agreement, are hereby stayed. Further, any actions brought by Participating Settlement Class Members concerning the Released Claims are hereby enjoined and stayed pending Final Approval of the Settlement Agreement.

17. **Schedule and Deadlines.** The Court orders the following schedule of dates for the specified actions/further proceedings:

Event	Days after entry of this Preliminary Approval Order
Mulkay provides Class List to the Settlement Administrator	14 days
Notice Date	30 days
Class Counsel's Motion for Attorneys' Fees and Costs	60 days
Opt-out and Objection Deadline	75 days
Settlement Administrator shall distribute the Opt-Out and Objection Report	85 days
Claims Deadline	120 days
Final Approval Hearing	150 days (at minimum)
Motion for Final Approval	21 days before Final Approval Hearing

SO ORDERED THIS ____ DAY OF _____, 2024.

Hon. John D. O'Dwyer, P.J.S.C.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Mulkay Cardiology Consultants Settlement Resolves Data Breach Lawsuit](#)
