

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

CHERYL COVINGTON, on behalf of
herself and all others similarly situated,

Plaintiff,

v.

GIFTED NURSES, LLC d/b/a
GIFTED HEALTHCARE,

Defendant.

Case No. 1:22-cv-04000-VMC

**UNOPPOSED MOTION FOR
FINAL APPROVAL OF CLASS
SETTLEMENT**

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

Plaintiff Cheryl Covington respectfully moves this Court to enter the agreed Final Approval Order, which grants final approval to the Class Action Settlement Agreement and Release, Dkt. 40-2, at 4–54. This Motion is made pursuant to Federal Rule of Civil Procedure 23(e) and is based on the accompanying Memorandum of Law and authorities cited therein, the Declaration of Patrick M. Passarella and exhibits attached thereto, and all files, records, and proceedings in this matter. Defendant does not oppose the motion, and no class member has objected to the Settlement.

Dated: June 11, 2024

Respectfully submitted,

/s/ Joseph B. Alonso

Joseph B. Alonso (Ga. Bar # 013627)

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CERTIFICATE OF FONT TYPE, SIZE AND SERVICE

This is to certify that on June 11, 2024, that I prepared **Plaintiff's Unopposed Motion for Final Approval of Class Settlement** in Time New Roman, 14 point type in accordance with L.R. 5.1(C), and that I electronically filed the document with the Clerk of Court using the CM/ECF system, which sent notification of such filing to all counsel of record.

/s/ Joseph B. Alonso _____

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**PLAINTIFF'S MEMORANDUM
OF LAW IN SUPPORT OF
UNOPPOSED MOTION FOR
FINAL APPROVAL OF CLASS
SETTLEMENT**

INTRODUCTION

Plaintiff, Cheryl Covington, moves the Court under Federal Rule of Civil Procedure 23(e) to grant final approval to the corrected class action settlement with Defendant Gifted Nurses, LLC d/b/a Gifted Healthcare, Dkt. 50-1 (the “Settlement or Settlement Agreement”). The Court previously granted preliminary approval to the Settlement on March 20, 2024, Dkt. 49, Court-approved notice was sent to the Class Members, and out of 11,316 people not a single Class Member objected and only one opted out.¹ The reaction of the Class Members thus reinforces the Court’s preliminary approval of the Settlement as being worthy now of final approval.

¹ The number of Class Members was originally believed to be around 11,566 but was ultimately reduced to 11,316 after further review and deduplication. Decl. of Patrick M. Passarella, ¶ 5.

FACTUAL BACKGROUND

Plaintiff alleges that, in August 2022, cybercriminals bypassed Defendant’s cybersecurity and thereby gained unauthorized access to the personally identifying information and other sensitive, non-public financial information (collectively, “Personal Information”)² belonging to approximately 11,316 employees and applicants. To address that harm, Ms. Covington asserted claims for negligence, negligence *per se*, breach of express and implied contractual duties, unjust enrichment, and invasion of privacy, alleging the company violated its duty to protect her Personal Information.

Defendant contested Ms. Covington’s claims from the start, denying liability and filing a motion to dismiss pursuant to Rules 12(b)(1) and 12(b)(6). Dkt. 25. On July 19, 2023, this Court granted in part and denied in part Defendant’s motion, and directed Plaintiff to file an amended complaint, Dkt. 33, which she did on August 2, 2023. Dkt. 34. Thus, only Plaintiff’s invasion of privacy claim did not survive. *See* Dkt. 33. Although Ms. Covington believed her claims would survive all subsequent challenges, including through class certification and summary judgment, discovery revealed risks for both parties in litigating Plaintiff’s claims. Recognizing those risks, the parties agreed to mediate the case with Mr. Bennett Picker, who brokered

² Capitalized terms not otherwise defined in this Memo shall have the meaning ascribed to them in the Settlement Agreement.

a framework for settling, one the parties refined into the ultimate Settlement Agreement.

SETTLEMENT OUTLINE

The Settlement secures five benefits for the class, remediating and mitigating the harms that Plaintiff alleges Defendant’s data breach and associated failures to implement reasonable cybersecurity measures has caused and will continue to cause.

First, Settlement Class Members have the option to enroll in credit monitoring and identity theft protection services at no cost. *Id.* § 4.1. The service provides credit monitoring from three credit bureaus for three years. *Id.* Those services will come with fraud insurance, covering up to \$1 million in losses for Members who enroll. *Id.* Defendant will offer these services without reducing any other benefits to the Settlement Class, including claims to reimburse losses. *Id.*

Second, the Settlement offers Settlement Class Members a chance to claim losses from the breach, including Ordinary and Extraordinary losses. *Id.* § 4.3–4.4. For Ordinary losses, Class Members may claim up to \$400 for losses resulting from the breach, including identity theft, fraud, and costs spent mitigating those risks. *Id.* They can also claim “lost time” dealing with the breach at \$20/hour for up to four (4) hours. *Id.* For Extraordinary losses, Class Members may claim up to \$4,000 for losses resulting from the breach—including identity theft, fraud, and costs spent mitigating those risks. *Id.*

Third, Class Members can forego submitting a claim for losses incurred and instead submit a claim for an Alternative Cash Payment of \$50 per person, without the need to show or prove any actual loss. *Id.* § 4.5.

Fourth, Defendant has confirmed it has improved its cybersecurity since its data breach, affirming that commitment in the Settlement Agreement with specific equitable relief. *Id.* § 4.6. This relief will not reduce any other relief afforded to the class. *Id.* Altogether, these improvements will safeguard the PII Defendant still possesses, including data belonging to Settlement Class Members.

Finally, Defendant will pay the cost to administer the settlement, including the Claims Administrator's costs to notify the class and process claims. *Id.* § 7.3. This benefit will not reduce any other benefits afforded to the Settlement Class. *Id.*

To receive the Settlement's benefits, Plaintiff and Class Members agree to release Defendant from the claims they may have related to the data breach. *Id.* § 6.

PRELIMINARY APPROVAL AND NOTICE

On March 20, 2024, the Court granted preliminary approval to the Settlement, finding it to be within the range of final approval and finding that the requirements for class certification appeared met. Dkt. 49. The Court-approved notice was then sent to the Class Members. Decl. of Patrick M. Passarella, ¶ 9. Out of at least 11,316 Class Members, no Class Member objected, and only one Class Member opted out. *Id.* ¶¶ 15–16.

ARGUMENT

Rule 23(e) of the Federal Rules of Civil Procedure requires judicial approval of any settlement that will bind absent class members. This involves a two-step process. MANUAL FOR COMPLEX LITIGATION § 30.41, at 236 (3d ed. 1995). First, counsel submit the proposed settlement terms to the court, and the court makes a preliminary fairness evaluation. *Id.* Second, following preliminary approval, class members are provided notice of a fairness hearing, at which time arguments and evidence may be presented in support of, or in opposition to, the settlement. *Id.*

At the preliminary approval stage, the court must determine whether it “will likely be able to: (i) approve the proposal under Rule 23(e)(2); and (ii) certify the class for purposes of judgment on the proposal.” Fed. R. Civ. P. 23(e)(1)(B). Rule 23(e)(2), in turn, specifies the following factors the court should consider at the final approval stage in determining whether a settlement is “fair, reasonable, and adequate”:

1. the class representatives and class counsel have adequately represented the class;
2. the proposal was negotiated at arm’s length;
3. the relief provided for the class is adequate, taking into account:
 - a. the costs, risks, and delay of trial and appeal;
 - b. the effectiveness of any proposed method of distributing relief to the class;
 - c. the terms of any proposed award of attorneys’ fees; and
 - d. any agreement required to be identified under Rule 23(e)(3);
and
4. the proposal treats class members equitably relative to each other.

Fed. R. Civ. P. 23(e)(2). Indeed, the objective is to “focus the court . . . on the core concerns of procedure and substance that should guide the decision whether to approve the proposal.” Fed. R. Civ. P. 23(e) (2018 advisory committee notes).

The ultimate decision whether to approve a proposed class action settlement is “committed to the sound discretion of the district court.” *In re U.S. Oil & Gas Litig.*, 967 F.2d 489, 493 (11th Cir. 1992). However, in exercising this discretion, courts are mindful of the “strong judicial policy favoring settlement,” as well as “the realization that compromise is the essence of settlement.” *Bennett v. Behring Corp.*, 737 F.2d 982, 986 (11th Cir. 1984). “Settlements conserve judicial resources by avoiding the expense of a complicated and protracted litigation process and are highly favored by the law.” *In re Motorsports Merchandise Antitrust Litig.*, 112 F. Supp. 2d 1329, 1333 (N.D. Ga. 2000). The Court has broad discretion in approving a settlement. *Id.*

A. The Court Should Grant Final Approval

Approval under Rule 23(e)(2) requires that the settlement be fair, reasonable, and adequate, taking into consideration the following factors: (1) whether “the class representatives and class counsel have adequately represented the class”; (2) whether the settlement “was negotiated at arm’s length”; (3) whether “the relief provided for the class is adequate”; and (4) whether the settlement “treats class members

equitably relative to each other.” Fed. R. Civ. P. 23(e)(2)(A)-(D). Other factors, known as the *Bennett* factors, are:

(1) the likelihood of success at trial; (2) the range of possible recoveries; (3) the point on or below the range of possible recoveries at which a settlement is fair, adequate and reasonable; (4) the complexity, expense and duration of litigation; (5) the substance and degree of opposition to the settlement; and (6) the stage of the proceedings at which the settlement was achieved.

Columbus Drywall & Insulation, Inc. v. Masco Corp., 258 F.R.D. 545, 558–59 (N.D. Ga. 2007).

i. **The Court should presume the Settlement is reasonable because the parties negotiated it in good faith at arms’ length.**

Settlement negotiations that involve arms’ length, informed bargaining with the aid of experienced counsel support a finding of fairness. *See, e.g., In re Checking Acct. Overdraft Litig.*, 275 F.R.D. 654, 661 (S.D. Fla. 2011).

The Settlement was negotiated at arm’s length, without collusion, and with the assistance of a well-respected mediator. Joint Declaration in Support of Unopposed Motion for Preliminary Approval of Class Settlement (“Decl.”), Dkt. 40-2, ¶ 3. As part of the mediation process, the parties exchanged informal discovery pursuant to Rule 408, and exchanged and provided to the mediator comprehensive memoranda outlining the strengths and weaknesses of their claims and defenses. Decl. ¶ 3. Class Counsel’s attorneys’ fees, costs, and expenses were not discussed

until after the parties agreed on all other material terms of the Settlement. Decl. ¶ 4. This factor weighs in favor of granting final approval under Rule 23(e)(2)(B).

ii. The Class was adequately represented.

Class Counsel have extensive experience litigating complex and class actions and have demonstrated particular success in litigating data security breach class actions on behalf of consumers. Decl. ¶ 1. Class Counsel have vigorously litigated this action and had adequate information to negotiate this Settlement. Decl. ¶ 2.

The Class Representative has demonstrated her adequacy in selecting well-qualified Class Counsel, monitoring the litigation, and participating in the mediation process, among other tasks. Decl. ¶ 4. “The Eleventh Circuit applies a two-prong test for adequacy: ‘(1) whether any substantial conflicts of interest exist between the representatives and the class; and (2) whether the representatives will adequately prosecute the action.’” *Pizarro v. Home Depot, Inc.*, No. 1:18-cv-01566, 2020 WL 6939810, at *10 (N.D. Ga. Sept. 21, 2020) (quoting *Valley Drug Co. v. Geneva Pharms., Inc.*, 350 F.3d 1181, 1189 (11th Cir. 2003)). Both these prongs are met. Plaintiff is not aware of any conflicts of interest with other Class Members, and she has participated in the action. This is sufficient to demonstrate adequacy. Thus, this factor under Rule 23(e)(2)(A) weighs in favor of granting final approval.

iii. The Settlement is fair, adequate, and reasonable.

The Settlement provides a strong recovery for the Class in light of the novel risks posed by continued litigation. Class Members are eligible for substantial cash benefits for both actual losses (up to \$80 lost time, plus \$400 ordinary losses, plus \$4,000 extraordinary losses) or for an alternative cash payment of \$50 without any need to provide documentation of harm. Defendant is also required to adopt and/or maintain security measures to protect the sensitive data it continues to store and collect. These benefits compare favorably with settlements approved in similar data breach cases. *See, e.g., Mowery v. Saint Francis Healthcare Sys.*, No. 1:20-cv-00013-SPC (E.D. Mo. Dec. 22, 2020) (data breach settlement providing up to \$280 in value to Settlement Class Members in the form of reimbursement up to \$180 of out-of-pocket expenses and time spent dealing with the data breach, credit monitoring services valued at \$100, and equitable relief in the form of data security enhancements); *Baksh v. IvyRehab Network, Inc.*, No. 7:20-cv-01845 (S.D.N.Y. Jan. 27, 2021) (providing up to \$75 per class member out-of-pocket expenses incurred related to the data breach and \$20 reimbursement for lost time, with payments capped at \$75,000 in aggregate, credit monitoring for claimants, and equitable relief in the form of data security enhancements); *Rutledge v. Saint Francis Healthcare Sys.*, No. 1:20-cv-00013-SPC (E.D. Mo.) (data breach settlement providing up to \$280 in value to Settlement Class Members in the form of reimbursement up to \$180

of out-of-pocket expenses and time spent dealing with the data breach, credit monitoring services valued at \$100, and equitable relief in the form of data security enhancements); *Chacon, et al. v. Nebraska Medicine*, No. 8:21-cv-00070 (D. Neb.) (data breach settlement providing up to \$300 in ordinary expense reimbursements, up to \$3,000 in extraordinary expense reimbursements, credit monitoring services, and equitable relief in the form of data security enhancements). Thus, the benefits here, which are substantially more than similar cases, are fair, reasonable, and adequate.

1. The Risks, Costs, and Delay of Continued Litigation

Courts weigh the first *Bennett* factor, the likelihood of success at trial, “against the amount and form of relief contained in the settlement.” *Saccoccio v. JP Morgan Chase Bank, N.A.*, 297 F.R.D. 683, 692 (S.D. Fla. 2014). This factor weighs in favor of approval where “success at trial is not certain for Plaintiff[s].” *Burrows v. Purchasing Power, LLC*, No. 1:12-cv-22800, 2013 WL 10167232, at *6 (S.D. Fla. Oct. 7, 2013). Although Plaintiffs are confident about their case, the risks involved cannot be disregarded.

Class certification is always challenging. Even assuming a class is certified, Plaintiffs risk losing on summary judgment, at trial, or on appeal. *See generally In re Motorsports*, 112 F. Supp. 2d at 1334 (“[T]he trial process is always fraught with uncertainty.”). The proposed settlement avoids these uncertainties and provides the

class with meaningful and certain relief. *See Henderson v. Emory Univ.*, No. 1:16-cv-02920, 2020 WL 9848975, at *6 (N.D. Ga. Nov. 4, 2020) (“The guaranteed recovery under the settlement outweighs the possibility of any future relief after such continued and lengthy litigation.”); *In re the Home Depot, Inc., Cust. Data Sec. Breach Litig.*, 2016 WL 6902351, at *6 (“[I]t is unclear whether future recovery at trial could achieve more than the relief made available in the Settlement. The early settlement of this case benefits the Settlement Class and weighs strongly in favor of final approval.”); *Bennett v. Behring Corp.*, 96 F.R.D. 343, 349–50 (S.D. Fla. 1982) (stating that it would have been “unwise [for plaintiffs] to risk the substantial benefits which the settlement confers . . . to the vagaries of a trial”), *aff’d*, 737 F.2d 982 (11th Cir. 1984).

2. The Method of Distributing Benefits will be Equitable and Effective

As discussed above, Class Members are eligible for all the benefits for which they qualify and there is no cap on the overall amount. The task of validating claims will be delegated to the Settlement Administrator, a neutral party which has significant experience processing these claims in similar cases. Decl. ¶ 3. No Class Member will receive different treatment or a category of relief that is unavailable to other Class Members. The 180-day claim period will be sufficiently long to enable all eligible Class Members to collect any necessary information before submitting

their claims. For these reasons, the plan of distribution is both equitable and effective.

3. The Reaction of the Class Members Supports Approval

Finally, the reaction of the Class Members overwhelmingly supports approval of the Settlement, as no Class Member objects and only one person opted out. Having satisfied Rule 23(e), this Court should grant final approval to the Settlement.

B. The Court Should Certify the Class for Settlement Purposes

When a settlement is reached before certification, a court must determine whether to certify the settlement class for purposes of settlement. *See, e.g.*, MANUAL FOR COMPLEX LITIGATION § 21.632 (4th ed. 2014); *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 613-14 (1997). Certification of a settlement class is proper when the requirements of Rule 23(a) and at least one subsection of Rule 23(b) are satisfied. *See, e.g., Columbus Drywall & Insulation, Inc. v. Masco Corp.*, 258 F.R.D. 545, 553 (N.D. Ga. 2007).

Under Rule 23(a), the Court can certify a class when it is so “numerous that joinder is impracticable,” the class shares questions of law or fact, the representatives’ claims are “typical,” and the representative with “fairly and adequately protect” the class’s interests. *See* Fed. R. Civ. P. 23(a). And a plaintiff may maintain a class when “questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class

action is superior to other available methods for fairly and efficiently adjudicating the controversy.” Fed. R. Civ. P. 23(b)(3).

The Court should certify this Settlement Class for purposes of entering judgment on the Settlement. Indeed, courts have certified similar classes in data breach cases—both for litigation purposes, *see In re Target Corp. Cust. Data Sec. Breach Litig.*, 309 F.R.D. 482 (D. Minn. 2015), as well as for purposes of settlement, *see In re Home Depot*, 2016 WL 6902351 at *1–2 (N.D. Ga. Sept. 22, 2017).

i. The Class satisfies numerosity.

The class satisfies Rule 23(a)(1) because it is “so numerous that joinder of all members is impractical.” The Class consists of at least 11,316 Class Members, which is more than sufficient. *See, e.g., James D. Hinson Elec. Contracting Co., Inc. v. BellSouth Telecomms., Inc.*, 275 F.R.D. 638, 642 (M.D. Fla. 2011) (explaining that “the Eleventh Circuit’s general rule is that ‘less than twenty-one is inadequate, more than forty [is] adequate’”).

ii. The Class satisfies commonality.

Commonality exists because the class’s claims involve “questions of law or fact common to the class.” Fed. R. Civ. P. 23(a)(2). “[C]ommonality requires ‘that there be at least one issue whose resolution will affect all or a significant number of the putative class members,’” *Williams v. Mohawk Indus., Inc.*, 568 F.3d 1350, 1355 (11th Cir. 2009), and “is generally satisfied when a plaintiff alleges that defendants

have engaged in a standardized course of conduct that affects all class members.” *Terrill v. Electrolux Home Prods., Inc.*, 295 F.R.D. 671, 685 (S.D. Ga. 2013), vacated and remanded on other grounds, *Brown v. Electrolux Home Prods.*, 817 F.3d 1225 (11th Cir. 2016). In this case, all Class Members assert that their Personal Information was inadequately secured by Defendant and thus accessed by unauthorized third parties, resulting in the same type of personal harms and giving rise to the same legal claims. Proving their claims will thus involve numerous common questions of law and fact that will be resolved in the same way for all Class Members. The commonality requirement is thus met.

iii. Plaintiff and Class Counsel are adequate.

In assessing the adequacy requirement, courts employ “a two-part test: (1) whether plaintiffs have interests antagonistic to the interests of other class members; and (2) whether the proposed class counsel has the necessary qualifications and experience to lead the litigation.” *Columbus Drywall*, 258 F.R.D. at 555. Plaintiffs do not have any interests antagonistic to other class members and have retained lawyers who are abundantly qualified and experienced. Decl. ¶ 1. The requirement is thus met.

iv. Plaintiff’s claims are typical.

The typicality requirement primarily focuses on whether the named plaintiff’s claims “have the same essential characteristics” as claims of other Class Members.

See, e.g., Appleyard v. Wallace, 754 F.2d 955, 958 (11th Cir. 1985). The requirement is undemanding, *In re Disposable Contact Lens Antitrust Litig.*, 170 F.R.D. 524, 532 (M.D. Fla. 1996), requiring only some nexus between the named plaintiffs' claims and the common questions uniting the class, *see, e.g., Hines v. Widnall*, 334 F.3d 1253, 1256 (11th Cir. 2003). A sufficient nexus exists if the claims arise from the same pattern of conduct and there is a similarity of legal theories. *See, e.g., Williams*, 568 F.3d at 1357. Here, the claims of all Class Members arise out of the same alleged misconduct by Defendant and are based on the same legal theories. Thus, the typicality requirement is satisfied.

v. Class-wide issues predominate.

Rule 23(b)(3) requires that “questions of law or fact common to class members predominate over any questions affecting only individual members.” “Common issues of fact and law predominate if they have a direct impact on every class member’s effort to establish liability and on every class member’s entitlement to injunctive and monetary relief.” *Carriuolo v. Gen. Motors Co.*, 823 F.3d 977, 985 (11th Cir. 2016). Predominance does not require that all questions be common, but rather that “a significant aspect of the case . . . can be resolved for all members of the class in a single adjudication.” *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1022 (9th Cir. 1998).

The requirement is met here for purposes of the Settlement because the overwhelming majority of the issues of law and fact are common to all Class Members. *See, e.g., In re Target*, 309 F.R.D. at 486–89. The only potentially individualized issue is damages, which does not defeat predominance. *Brown v. Electrolux Home Prods., Inc.*, 817 F.3d 1225, 1239 (11th Cir. 2016) (“The ‘black letter rule’ recognized in every circuit is that ‘individual damage calculations generally do not defeat a finding that common issues predominate.’”) (quoting William B. Rubenstein, *NEWBERG ON CLASS ACTIONS*, § 4:54 (5th ed. 2011)).

vi. Class-wide resolution is superior.

Rule 23(b)(3) also requires that class treatment is “superior to other available methods for fairly and efficiently adjudicating the controversy.” Fed. R. Civ. P. 23(b)(3). “The inquiry into whether the class action is the superior method for a particular case focuses on increased efficiency.” *Agan v. Katzman & Korr, P.A.*, 222 F.R.D. 692 (S.D. Fla. 2004). Manageability, the part of the superiority analysis that asks whether the case, if tried as a class action, would be manageable, is irrelevant for purposes of certifying a settlement class. *Amchem*, 521 U.S. at 620.

Litigating the claims of thousands of class members, which would require presentation of the same evidence and expert opinions many times over, would be inefficient. *See Terrill*, 295 F.R.D. at 697 (“A single, coordinated proceeding is superior to hundreds of discrete and disjointed suits addressing the same facts and

legal issues.”). Because class treatment is superior to individual litigation, superiority is satisfied.

CONCLUSION

For all these reasons, the Court should enter the proposed final approval order, certifying the Settlement Class for purposes of entering judgment on the Settlement so that Class Members can receive the Settlement benefits and this litigation can be resolved.

Dated: June 11, 2024

Respectfully submitted,

/s/ Joseph B. Alonso

Joseph B. Alonso (Ga. Bar # 013627)

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Counsel for Plaintiff and the Class

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/s/ Joseph B. Alonso _____

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**UNITED STATES DISTRICT COURT
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individually and on behalf of
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GIFTED HEALTHCARE,

Defendant.

Case No. 1:22-cv-04000-VMC

CLASS ACTION

**DECLARATION OF
PATRICK M. PASSARELLA OF KROLL
SETTLEMENT ADMINISTRATION LLC
IN CONNECTION WITH FINAL APPROVAL
OF SETTLEMENT**

Date: August 1, 2024
Time: 10:30 AM
Dept: Courtroom 2105

The Hon. Victoria Marie Calvert

I, Patrick M. Passarella, declare as follows:

INTRODUCTION

1. I am a Senior Director of Kroll Settlement Administration LLC (“Kroll”),¹ the Settlement Administrator² appointed in the above-captioned case, whose principal office is located at 2000 Market Street, Suite 2700, Philadelphia, Pennsylvania 19103. I am over 21 years of age and am authorized to make this declaration on behalf of Kroll and myself. The following statements are based on my personal knowledge and information provided by other experienced Kroll employees working under my general supervision. This declaration is being filed in connection with final approval of the Settlement.

2. Kroll has extensive experience in class action matters, having provided services in class action settlements involving antitrust, securities fraud, labor and employment, consumer, and government enforcement matters. Kroll has provided notification and/or claims administration services in more than 3,000 cases.

BACKGROUND

3. Kroll was appointed as the Settlement Administrator to provide notification and claims administration services in connection with that certain Corrected Class Action Settlement Agreement and Release (the “Settlement Agreement”) entered into in this Litigation. Kroll’s duties in connection with the Settlement have and will include: (a) preparing and sending notices in connection with the Class Action Fairness Act; (b) receiving and analyzing the Class Member contact list (the “Class List”) from Defendant’s Counsel; (c) creating a Settlement Website with online claim filing capabilities; (d) establishing a toll-free telephone number; (e) establishing a post office box for the receipt of mail; (f) preparing and sending the Summary Notice via first-class mail; (g) receiving and processing mail from the United States Postal Service (“USPS”) with

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Settlement Agreement as defined below.

² The Settlement Agreement and Preliminary Approval Order identify the Settlement Administrator as either “Kroll Administration” or “Kroll,” neither of which is a legal entity. Kroll Settlement Administration LLC is the full legal name of the Settlement Administrator in this case.

forwarding addresses; (h) receiving and processing undeliverable mail, without a forwarding address, from the USPS; (i) receiving and processing Claim Forms; (j) receiving and processing opt-out requests and objections; and (k) such other tasks as counsel for the Parties or the Court request Kroll to perform.

NOTICE PROGRAM

The CAFA Mailing

4. As noted above, on behalf of the Defendant, Kroll provided notice of the proposed Settlement pursuant to the Class Action Fairness Act, 28 U.S.C. §1715(b) (“the CAFA Notice”). At Defendant’s Counsel’s direction, on March 4, 2024, Kroll sent the CAFA Notice identifying the documents required, a true and correct copy of which is attached hereto as **Exhibit A**, via first-class certified mail, to (a) the Attorney General of the United States, (b) the fifty-five (55) state and territorial Attorneys General identified in the service list for the CAFA Notice, attached hereto as **Exhibit B**, and (c) via email to the Nevada Attorney General, pursuant to that office’s standing request that all CAFA Notices be delivered by email. The CAFA Notice directed the Attorneys General to the website www.CAFANotice.com, a site that contains all the documents relating to the Settlement referenced in the CAFA Notice.

Data and Case Setup

5. On March 26, 2024, Kroll received one (1) data file from the Defendant. The file contained 11,566 individual records, with fields for full name and mailing address. Of the 11,566 records, 249 consisted of names only, with no additional information by which to identify an address, and therefore were removed from the final Class List. Kroll undertook several steps to compile the eventual Class List for the mailing of Summary Notices, including standardizing addresses, and removed one duplicate record, resulting in a final Class List of 11,316 Class Members. Additionally, in an effort to ensure that Summary Notices would be deliverable to Class Members, Kroll ran the Class List through the USPS’s National Change of Address (“NCOA”) database and updated the Class List with address changes received from the NCOA.

6. On April 3, 2024, Kroll created a dedicated Settlement Website entitled www.GiftedNursesDataBreachSettlement.com. The Settlement Website “went live” on April 19, 2024, and contains information about the Settlement, including important dates such as the deadline to submit a Claim Form, objection, or opt-out request and the Final Approval hearing date, as well as contact information for the Settlement Administrator, and answers to frequently asked questions. The Settlement Website also contains a downloadable copy of the Detailed Notice, Settlement Agreement, Preliminary Approval Order, Claim Form, and other relevant Court documents, and allowed Class Members an opportunity to file a Claim Form online.

7. On March 27, 2024, Kroll established a toll-free telephone number, (833) 425-4872, for Class Members to call and obtain additional information regarding the Settlement through an Interactive Voice Response (“IVR”) system and/or by leaving a voicemail with the option of receiving a call back from a live operator. As of May 31, 2024, the IVR system has received eight (8) calls, and no callers have left voicemails or requested a call back from a live operator.

8. On March 27, 2024, Kroll designated a post office box with the mailing address *Covington v. Gifted Nurses*, c/o Kroll Settlement Administration, PO Box 225391, New York, NY 10150-5391, in order to receive opt-out requests, Claim Forms, objections, and correspondence from Class Members.

The Notice Program

9. On April 19, 2024, Kroll caused 11,316 Summary Notices to be mailed via first-class mail. A true and correct copy the mailed Summary Notice, along with the Detailed Notice and Claim Form, are attached hereto as **Exhibits C, D, and E**, respectively.

NOTICE PROGRAM REACH

10. As of May 31, 2024, sixty-nine (69) Summary Notices were returned by the USPS with a forwarding address. Of those, sixty-two (62) Summary Notices were automatically re-mailed to the updated addresses provided by USPS. The remaining seven (7) Summary Notices were re-mailed by Kroll to the updated address provided by the USPS.

11. As of May 31, 2024, 513 Summary Notices were returned by the USPS as undeliverable as addressed, without a forwarding address. Kroll ran 495 undeliverable records through an advanced address search in two separate batches.³ The first advanced address search of 324 records produced 273 updated addresses. Kroll has re-mailed Summary Notices to these 273 with updated addresses obtained from the advanced address search. Of the 273 re-mailed Notices, none have yet been returned as undeliverable a second time. The second advanced address search of 171 records yielded 150 updated addresses. Those 150 Summary Notices will be re-mailed on or about June 3, 2024.

12. Based on the foregoing, following all Summary Notice re-mailings, Kroll has reason to believe that Summary Notice likely reached 11,076 of the 11,316 persons to whom Summary Notice was mailed as of the date of this declaration, which equates to a reach rate of the direct mail notice of approximately 97.87%. This reach rate is consistent with other court-approved, best-practicable notice programs and Federal Judicial Center Guidelines, which state that a notice plan that reaches⁴ over 70% of targeted class members is considered a high percentage and the “norm” of a notice campaign.⁵ The table below provides an overview of dissemination results for the direct notice program.

Direct Notice Program Dissemination & Reach		
Description	Volume of Class Members	Percentage of Class Members
Class Members	11,316	100.0%
Initial Summary Notice Mailing		
(+) Notices Mailed (Initial Campaign)	11,316	100%

³ Kroll is continuing to process and respond to Summary Notices returned by the USPS as undeliverable without a forwarding address and will continue to process and respond to all remailings up to the Final Approval Hearing date.

⁴ FED. JUD. CTR., *Judges’ Class Action Notice and Claims Process Checklist and Plain Language Guide* (2010), available at <https://www.fjc.gov/sites/default/files/2012/NotCheck.pdf>. The guide suggests that the minimum threshold for adequate notice is 70%.

⁵ Barbara Rothstein and Thomas Willging, *Federal Judicial Center Managing Class Action Litigation: A Pocket Guide for Judges*, at 27 (3d Ed. 2010).

(-) Total Notices returned as undeliverable	(513)	4.53%
Supplemental Summary Notice Mailing		
(+) Total Unique Summary Notices Re-mailed	273	2.41%
(-) Total Undeliverable (Re-Mailed) Summary Notices	(0)	0%
Direct Summary Notice Program Reach		
(=) Received Direct Notice	11,076	97.87%

CLAIM ACTIVITY

13. The Deadline to Submit Claims is September 16, 2024.

14. To prevent Claim Forms from being filed by individuals outside the Settlement Class and to curtail fraud, Class Members were provided a unique "Class Member ID" on their respective Summary Notices. The Class Member ID is required for Settlement Class Members to file a Claim Form online.

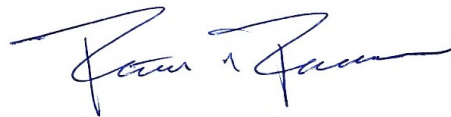
EXCLUSIONS AND OBJECTIONS

15. The Deadline to Object and the Deadline to Opt-Out was May 20, 2024.

16. Kroll has received one (1) timely exclusion request and no objections to the Settlement. A list of the exclusions is attached hereto as **Exhibit F**.

CERTIFICATION

I declare under penalty of perjury under the laws of the United States that the above is true and correct to the best of my knowledge and that this declaration was executed on May 31, 2024, in Wendell, North Carolina.



PATRICK M. PASSARELLA

Exhibit A



VIA U.S. MAIL

Date: March 4, 2024

To: All “Appropriate” Federal and State Officials Per 28 U.S.C. § 1715
(see attached service list)

Re: CAFA Notice for the proposed Settlement in *Covington v. Gifted Nurses, LLC d/b/a Gifted Healthcare*, Case No. 1:22-cv-04000-VMC pending in the United States District Court Northern District of Georgia Atlanta Division

Pursuant to Section 3 of the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. § 1715, Defendant Gifted Nurses, LLC d/b/a Gifted Healthcare (“Defendant” or “Gifted Nursing”) hereby notifies you of the proposed settlement of the above-captioned action (the “Action”), currently pending in the United States District Court Northern District of Georgia Atlanta Division (the “Court”).

Eight items must be provided to you in connection with any proposed class action settlement pursuant to 28 U.S.C. § 1715(b). Each of these items is addressed below, and all exhibits are available for download at www.CAFANotice.com under the folder entitled *Covington v. Gifted Nurses, LLC d/b/a Gifted Healthcare*:

1. 28 U.S.C. § 1715(b)(1) – a copy of the complaint and any materials filed with the complaint and any amended complaints.

The Class Action Complaint and First Amended Complaint are available as **Exhibit A and A1**.

2. 28 U.S.C. § 1715(b)(2) – notice of any scheduled judicial hearing in the class action.

On February 23, 2024, Plaintiff filed a motion for Preliminary Approval of the class action settlement, and the date of the preliminary approval hearing has not yet been set. The Court has not yet scheduled the Final Approval Hearing for this matter. The proposed Preliminary Approval Order is available as **Exhibit B**.

3. 28 U.S.C. § 1715(b)(3) – any proposed or final notification to class members.

Copies of the proposed Summary Notice and Detailed Notice will be provided to Class Members and will be available on the Settlement Website created for the administration of this matter. These are available as **Exhibits C and D**. The Notices

describe, among other things, the claim submission process and the Class Members' rights to object or exclude themselves from the Class.

4. 28 U.S.C. § 1715(b)(4) – any proposed or final class action settlement.

The Settlement Agreement is available as **Exhibit E**.

5. 28 U.S.C. § 1715(b)(5) – any settlement or other agreement contemporaneously made between class counsel and counsel for defendants.

There are no other settlements or other agreements between Class Counsel and Defendant's Counsel beyond what is set forth in the Settlement Agreement.

6. 28 U.S.C. § 1715(b)(6) – any final judgment or notice of dismissal.

The Court has not yet entered a final judgment or notice of dismissal. Accordingly, no such document is presently available.

7. 28 U.S.C. § 1715(b)(7) – (A) If feasible, the names of class members who reside in each State and the estimated proportionate share of the claims of such members to the entire settlement to that State's appropriate State official; or (B) if the provision of the information under subparagraph (A) is not feasible, a reasonable estimate of the number of class members residing in each State and the estimated proportionate share of the claims of such members to the entire settlement.

The definition of the Class in the proposed Settlement Agreement means 13,770 individuals whose Personal Information was potentially compromised as a result of the Data Incident.

The complete list and counts by state of Class Members is not known.

8. 28 U.S.C. § 1715(b)(8) – any written judicial opinion relating to the materials described in 28 U.S.C. § 1715(b) subparagraphs (3) through (6).

There has been no written judicial opinion. Accordingly, no such document is presently available.

If you have any questions about this notice, the Action, or the materials available for download at www.CAFANotice.com under the folder entitled *Covington v. Gifted Nurses, LLC d/b/a Gifted Healthcare*, please contact the undersigned below.

Respectfully submitted,

Maggie McGill
Senior Manager
Maggie.McGill@Kroll.com

Exhibit B

CAFA NOTICE SERVICE LIST

U.S. Attorney General

Merrick B. Garland
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Alabama Attorney General

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Alaska Attorney General

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Anchorage, AK 99501

American Samoa Attorney General

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Territory of American Samoa
Pago Pago, AS 96799

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Denver, CO 80203

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Hartford, CT 06106

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Wilmington, DE 19801

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Washington, D.C. 20001

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Ashley Moody
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Tallahassee, FL 32399

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Indianapolis, IN 46204

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Brenna Bird
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Des Moines, IA 50319

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Topeka, KS 66612

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Suite 102, State Capital
St. Paul, MN 55155

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Department of Justice, P.O. Box 220
Jackson, MS 39205

Missouri Attorney General

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P.O. Box 899
Jefferson City, MO 65101

Montana Attorney General

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Office of the Attorney General, Justice Bldg.
215 N. Sanders St., Third Floor
P.O. Box 201401
Helena, MT 59620

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Mike Hilgers
2115 State Capitol
P.O. Box 98920
Lincoln, NE 68509

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Aaron D. Ford
* NVAGCAFAnotices@ag.nv.gov

New Hampshire Attorney General

John Formella
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Concord, NH 03301

* Preferred

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Trenton, NJ 08625

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Albany, NY 12224

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Bismarck, ND 58505

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Columbus, OH 43215

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Gentner Drummond
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Oklahoma City, OK 73105

Oregon Attorney General

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Austin, TX 78711

U.S. Virgin Islands Attorney General

Ariel M. Smith
34-38 Kronprindsens Gade
GERS Building, 2nd Floor
St. Thomas, Virgin Islands 00802

Page 6 of 6

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State Capitol, Rm. 236
Salt Lake City, UT 84114

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Montpelier, VT 05609

Virginia Attorney General

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State Capitol Complex, Bldg. 1, Rm. E-26
1900 Kanawha Blvd. E
Charleston, WV 25305

Wisconsin Attorney General

Josh Kaul
Wisconsin Department of Justice State
Capitol, Room 114 East
P.O. Box 7857
Madison, WI 53707

Wyoming Attorney General

Bridget Hill
State Capitol Bldg.
109 State Capitol
Cheyenne, WY 82002

Exhibit C

Case 1:22-cv-04000-VMC
Data Breach Settlement - 83021
c/o Kroll Settlement Administration LLC
P.O. Box 225391
New York, NY 10150-5391

Document 52-2 Filed 06/11/24 Page 16 of 34

FIRST CLASS MAIL
U.S. POSTAGE PAID
CITY, ST
PERMIT NO. XXXX

ELECTRONIC SERVICE REQUESTED

<<Refnum Barcode>>

Class Member ID: <<Refnum>>

Postal Service: Please do not mark or cover barcode

<<FirstName>> <<LastName>>

<<BusinessName>>

<<Address>>

<<Address2>>

<<City>>, <<ST>> <<Zip>>-<<zip4>>

A proposed Settlement has been reached in the above-entitled class action lawsuit. The lawsuit alleges that from approximately August 25, 2021, to December 10, 2021, Defendant experienced a Data Incident in which Defendant's computer systems were infiltrated by unauthorized individuals and the personal health information and personally identifiable information of patients was potentially compromised. Records indicate you are included.

Settlement Benefits. If you do not opt out of the Settlement, you may be entitled to receive Settlement benefits by submitting a Claim Form no later than **September 16, 2024**, which you can obtain online at **www.GiftedNursesDataBreachSettlement.com** or by calling **(833) 425-4872**. If eligible, you may submit a claim for three years of free credit monitoring and Identity Theft Protection Services (including \$1,000,000 in identity theft insurance), and you may submit a claim for Lost Time (\$20/per hour, up to 4 hours); Ordinary Losses (up to \$400); and Extraordinary Losses (up to \$4,000) you experienced related to the Data Incident. Alternatively, you may submit a claim for an Alternative Cash Payment of \$50.

Your Options. You can do nothing and claim no benefits, submit a Claim Form to claim benefits, object to the Settlement or any part of it, or opt out of the Settlement. If you do anything but opt out, you will give up the right to sue Defendant on the issues covered by the Settlement. If you opt out, you will retain the right to sue, but you will not be eligible to receive any of the benefits of the Settlement. Detailed instructions on how to make a claim, object, or opt out are available online at **www.GiftedNursesDataBreachSettlement.com** or by calling **(833) 425-4872**. Objections or opt out requests must be postmarked no later than **May 20, 2024**.

Final Approval Hearing. The Court will hold a final approval hearing on **August 1, 2024**, at **10:30 AM**, in Courtroom 2105, United States Courthouse, 75 Ted Turner Dr, SW Atlanta, GA 30303-3309. The Court will decide at the hearing whether the Settlement is fair, reasonable, and adequate. The Court will also consider a request for attorneys' fees and expenses of \$350,000 to be paid to Class Counsel and a service award to be paid to the Class Representative by Defendant in addition to the other Settlement Benefits. If you intend to appear at the final approval hearing either yourself or by a lawyer, you must submit your intention to appear by **May 20, 2024**.

Need More Information? Visit **www.GiftedNursesDataBreachSettlement.com** or call **(833) 425-4872**.

Postage
Required

Data Breach Settlement - 83021 +++
c/o Kroll Settlement Administration LLC
P.O. Box 225391
New York, NY 10150-5391

<<Barcode>>

Class Member ID: <<Refnum>> +++

Address Update

If you have an address different from where this postcard was mailed to, please write your correct address and email below and return this portion to the address provided on the other side.

DO NOT USE THIS POSTCARD TO FILE A CLAIM, AN EXCLUSION OR OBJECTION.

Name: _____
First Name M.I. Last Name

Street Address: _____

Street Address 2: _____

City: _____ State: _____ Zip Code: _____

Email Address: _____ @ _____

Exhibit D

**COVINGTON V. GIFTED NURSES, LLC, NO. 1:22-CV-04000-VMC
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA**

If you were sent a Notice of Data Breach by Gifted Nurses, LLC d/b/a Gifted Healthcare you could get benefits from a class action settlement.

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

This is notice of a proposed class action settlement that provides benefits to settle claims relating to a Data Incident that occurred between approximately August 25, 2021, and December 10, 2021, in which Defendant's computer systems were infiltrated by unauthorized individuals and the personal health information and personally identifiable information of patients was potentially compromised.

- The settlement benefits include:
 - Defendant will provide the option to enroll in three years of 3-credit-bureau credit monitoring and Identity Theft Protection Services (including \$1,000,000 in identity theft insurance), at no cost to you.
 - Defendant will pay valid claims submitted for Ordinary Losses (up to \$400), Lost Time (at \$20/hour up to 4 hours), and Extraordinary Losses (up to \$4,000) you experienced related to the Data Incident.
 - Alternatively, you can elect not to receive any of the above benefits and to instead receive an alternative cash payment of \$50.
- You have the right to do nothing, submit a claim, object to the Settlement or any part of it, or opt out of the Settlement. If you do not opt out of the Settlement, and final approval is granted, you will release any claims you have relating to the Data Incident as set forth in the Settlement Agreement.

Your legal rights are affected, so please read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:		
SUBMIT A CLAIM	To receive any of the cash benefits or the Identity Theft Protection Services available from the Settlement, you must submit a claim using the Claim Form, which may be obtained online at www.GiftedNursesDataBreachSettlement.com or by calling (833)425-4872 . If you submit a claim, you give up the right to bring a separate lawsuit about the same issues, but you are eligible to receive any of the Settlement benefits to which you have a valid claim.	September 16, 2024
EXCLUDE YOURSELF	If you exclude yourself from the Settlement, you will get no benefits from the Settlement, but you will keep the right to bring a separate lawsuit about the same issues at your own expense, if you choose.	May 20, 2024
OBJECT	If you object to the Settlement or any part of it, you may write to the Court about your objection. If the Settlement is approved you will still give up the right to bring a separate lawsuit about the same issues, and you will need to submit a claim to receive any Settlement benefits.	May 20, 2024
DO NOTHING	If you do nothing you will give up the right to bring a separate lawsuit about the same issues, and you will not be eligible to receive any benefits of the Settlement.	

- These rights and options—**and the deadlines to exercise them**—are explained in this notice.
- Please be patient while the Court decides whether to approve the Settlement. Payments will be made if the Court approves the Settlement and after any appeals.

WHAT THIS NOTICE CONTAINS

BASIC INFORMATION.....PAGE 4
1. Why did I get this notice?
2. What is the lawsuit about?
3. Why is this a class action?
4. Why is there a Settlement?

WHO IS IN THE SETTLEMENT.....PAGE 5
5. How do I know if I am part of the Settlement?

THE SETTLEMENT BENEFITS—WHAT YOU GET.....PAGE 5
6. What does the Settlement provide?
7. When would I get my payment?
8. What am I giving up to get a payment?

EXCLUDING YOURSELF FROM THE SETTLEMENT.....PAGE 5-6
9. How do I get out of the Settlement?
10. If I don't exclude myself, can I sue later for the same thing?
11. If I exclude myself, can I get money from this Settlement?

THE LAWYERS REPRESENTING YOU.....PAGE 6
12. Do I have a lawyer in the case?
13. How will the lawyers be paid?

OBJECTING TO THE SETTLEMENT.....PAGE 6-7
14. How do I tell the Court that I don't like the Settlement?
15. What's the difference between objecting and excluding?

THE COURT'S FINAL APPROVAL HEARING.....PAGE 7
16. When and where will the Court decide whether to approve the Settlement?
17. Do I have to come to the hearing?
18. May I speak at the hearing?

IF YOU DO NOTHING.....PAGE 7
19. What happens if I do nothing at all?

GETTING MORE INFORMATION.....PAGE 7
20. Are there more details about the Settlement?

BASIC INFORMATION

1. Why did I get this notice?

This notice has been posted to the Settlement Website relating to a class action brought against Defendant relating to a Data Incident that occurred between approximately August 25, 2021, and December 10, 2021, in which Defendant's computer systems were infiltrated by unauthorized individuals and the personal health information and personally identifiable information of patients was potentially compromised.

The Court approved this notice because Class Members have a right to know about the proposed class action Settlement, and about their options, before the Court decides whether to approve the Settlement. This notice explains the lawsuit, the Settlement, Class Members' legal rights, what benefits are available, and how to claim those benefits.

The Court in charge of the case is the United States District Court for the Northern District of Georgia, and the case is known as Covington v. Gifted Nurses, LLC d/b/a Gifted Healthcare. The person who sued is called the Plaintiff, and the company she sued is called the Defendant.

2. What is the lawsuit about?

The lawsuit claims that the Defendant failed to properly safeguard the personally identifiable information that Plaintiff alleges was compromised in the Data Incident. Defendant contends that it acted in accordance with applicable law and that it has no liability or fault relating to the Data Incident.

3. Why is this a class action?

In a class action lawsuit, one or more people called "Class Representatives" sue on behalf of themselves and other people who have similar claims. All of these people are called a Class or Class Members. This is a class action because the Court has preliminarily determined that the Settlement meets the legal requirements for resolution of a class action. Because the case is a class action, one court resolves the issues for everyone in the Class, except for those people who choose to exclude themselves from the Class.

4. Why is there a Settlement?

The Court did not decide in favor of the Plaintiff or the Defendant. Instead, both sides agreed to a Settlement. The Plaintiff has the duty to act in the best interests of the class as a whole and, in this case, it is her belief, as well as Class Counsel's opinion, that this settlement is in the best interest of all Class Members for at least the following reasons:

There is legal uncertainty about whether a judge or a jury will find that Defendant is legally responsible, whether this case could proceed as a class action if litigated, whether Plaintiff would be able to prove causation and damages at trial, and whether any verdict would withstand appeal, which might result in Class Members receiving no recovery, or a substantially smaller recovery than that being offered here. Even if the Plaintiff were to win at trial, there is no assurance that the Class Members would be awarded more than the current Settlement provides, and it may take years of litigation before any payments would be made. By settling, the Class Members will avoid these and other risks and the delays associated with continued litigation in exchange for access to guaranteed benefits now.

While Defendant disputes Plaintiff's claims, it has agreed to settle the lawsuit to avoid the costs, distractions, and risks of litigation. Thus, even though Defendant denies that it did anything improper, it believes Settlement is in the best interests of all the Parties. The Court will evaluate the Settlement to determine whether it is fair, reasonable, and adequate before it approves the Settlement.

WHO IS IN THE SETTLEMENT

To see if you will get money or other benefits from this Settlement, you first have to decide if you are a Class Member.

5. How do I know if I am part of the Settlement?

If you received a notice addressed to you regarding the Data Incident, then you are a member of the Settlement Class, you will be a part of the Settlement unless you exclude yourself. If you are not sure whether you have been properly included, you can call the number at the bottom of this notice to check.

THE SETTLEMENT BENEFITS—WHAT YOU GET

6. What does the Settlement provide and how can I claim benefits?

The Settlement provides for a number of benefits, and Class Members can claim as many of the benefits to which they are entitled.

First, Class Members may submit a claim to receive, at no cost, three years of 3-credit-bureau credit monitoring and Identity Theft Protection Services (including \$1,000,000 in identity theft insurance).

Second, Class Members who suffered an out-of-pocket loss or lost time related to the Data Incident may submit a claim for a cash reimbursement. Defendant will pay valid claims for Ordinary Losses (up to \$400), Lost Time (at \$20/hour up to 4 hours), and Extraordinary Losses (up to \$4,000) that a Class Member experienced fairly traceable to the Data Incident. These categories are explained in detail on the Claim Form.

In addition, you may elect to receive an Alternative Cash Payment of \$50 in lieu of the other benefits.

To receive any of the cash benefits or the Identity Theft Protection Services available from the Settlement, you must submit a claim using the Claim Form, which may be obtained online at www.GiftedNursesDataBreachSettlement.com or by calling (833)425-4872.

In addition to these benefits, Defendant has agreed to pay for the Costs of Notice and Administration, Attorneys' Fees Amount and expenses approved by the Court up to \$350,000, all in addition to the other benefits described above.

7. When would I get my benefits?

The Court will hold a hearing on **August 1, 2024**, to decide whether to approve the Settlement. If the Court approves the Settlement, there may be a period when appeals can be filed. Once any appeals are resolved or if no appeals are filed, it will be possible to distribute the funds. This may take several months and perhaps more than a year.

8. What am I giving up to get a payment?

Unless you exclude yourself, you are staying in the Class, and that means you cannot sue, continue to sue, or be part of any other lawsuit against Defendant relating to the legal claims in *this* case. It also means that all of the Court's orders will apply to you. Once the Settlement is final, your claims relating to *this* case will be released.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want a payment from this Settlement or the other benefits described here, but you want to keep the right to sue or continue to sue the Defendant on your own about the legal issues in this case, then you must take steps to get out. This is called excluding yourself—or is sometimes referred to as “opting out” of the Settlement.

9. How do I get out of the Settlement?

To exclude yourself from this Settlement, you must send a letter by mail saying that you want to opt-out or be excluded from *Covington v. Gifted Nurses, LLC d/b/a Gifted Healthcare*. The letter must include your name, address, telephone number, and your signature. You must mail your exclusion request postmarked no later than **May 20, 2024** to:

Covington v. Gifted Nurses Exclusions
c/o Kroll Settlement Administration LLC
PO Box 225391
New York, NY 10105-5391

You cannot exclude yourself on the phone or by e-mail. If you ask to be excluded, you will not get any Settlement benefits, and you cannot object to the Settlement. You will not be legally bound by anything that happens in this lawsuit.

10. If I don't exclude myself, can I sue later for the same thing?

No. Unless you exclude yourself, you give up the right to sue the Defendant for the claims resolved by this Settlement. If the Settlement is finally approved, you will be permanently enjoined and barred from initiating or continuing any lawsuit or other proceeding against Defendant about the issues in this lawsuit. Remember that the exclusion deadline is **May 20, 2024**.

11. If I exclude myself, can I get money from this Settlement?

No. If you exclude yourself, you are not eligible for any money or other benefits from this Settlement.

THE LAWYERS REPRESENTING YOU

12. Do I have a lawyer in this case?

The Court appointed the law firms of Stranch, Jennings & Garvey, PLLC; Turke & Strauss, LLP; and Cohen & Malad, LLP to represent you and other Class Members. Together, the lawyers are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

13. How will the lawyers be paid?

Class Counsel will ask the Court for attorneys' fees and expenses of up to \$350,000, to be paid by the Defendant, subject to Court approval, separate from, and in addition to, the benefits offered to Class Members under the Settlement.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you don't agree with the Settlement or some part of it.

14. How do I tell the Court that I don't like the Settlement?

If you're a Class Member, you can object to the Settlement if you don't like any part of it. To object, you must send a letter to the Settlement Administrator saying that you object to the Settlement, or part of it, in *Covington v. Gifted Nurses, LLC d/b/a Gifted Healthcare*. To have your objection considered by the Court, you also must file your objection with the Clerk of the Court (identified below). You must state the reasons for your objection and include any evidence, briefs, motions or other materials you intend to offer in support of the objection. You must include your name, address, telephone number, your signature, and the reasons you object to the Settlement, along with any materials in support of your arguments. If you intend to appear at the final approval hearing either yourself or by a lawyer, you must also state your intention to appear.

You must mail the objection to the Settlement Administrator at the following address no later than **May 20, 2024**:

**Covington v. Gifted Nurses Objections
c/o Kroll Settlement Administration
PO BOX 225391
New York, NY 10105-5391**

**Clerk of the Court
2211 United States Courthouse
75 Ted Turner Drive, SW
Atlanta, GA 30303-3309**

15. What's the difference between objecting and excluding?

Objecting is simply telling the Court that you don't like something about the Settlement. You can object only if you stay in the Settlement. Excluding yourself is telling the Court that you don't want to be part of the Settlement. If you exclude yourself, you have no basis to object because this case no longer affects you.

THE COURT'S FINAL APPROVAL HEARING

The Court will hold a hearing to decide whether to approve the Settlement. You do not need to attend, but you are welcome to do so, if you choose.

16. When and where will the Court decide whether to approve the Settlement?

The Court will hold a final approval hearing at **10:30 AM on August 1, 2024** in Courtroom 2105, United States Courthouse, 75 Turner Dr, SW Atlanta, GA 30303-3309 (or by telephonic or videoconference if necessary, please check the Settlement Website for updates on the hearing). At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will listen to people who have asked to speak at the hearing and complied with question 18 of this notice. The Court may also decide how much to pay Class Counsel and the Plaintiff. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take.

17. Do I have to come to the hearing?

No. You are welcome to come at your own expense if you wish, but Class Counsel will answer questions the Court may have. If you send an objection, you don't have to come to Court to talk about it, unless you want to. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary unless you want to.

18. May I speak at the hearing?

You may ask the Court for permission to speak at the final approval hearing along with your objection as set forth in paragraph 14 above.

IF YOU DO NOTHING

19. What happens if I do nothing at all?

If you do nothing, you will be a part of this Settlement, but you must submit a claim to receive any benefits. You won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Defendant relating to the claims brought in this case.

GETTING MORE INFORMATION

20. Are there more details about the Settlement?

This notice summarizes the proposed Settlement. More details are in the Settlement Agreement on file with the Court and available on the documents page of the Settlement Website at www.GiftedNursesDataBreachSettlement.com. You can also call toll free (833)425-4872.

Questions? Call (833)425-4872 or visit www.GiftedNursesDataBreachSettlement.com

Exhibit E



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Covington v Gifted Nurses c/o Kroll Settlement Administration P.O. Box 225391 New York, NY 10150-5391	ALL CLAIM FORMS MUST BE SUBMITTED NOT LATER THAN SEPTEMBER 16, 2024
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The DEADLINE to submit or mail this Claim Form is: September 16, 2024

Covington v. Gifted Nurses, LLC d/b/a Gifted Healthcare
United States District Court for the Northern District of Georgia

For Office Use Only

CLAIM FORM

This Claim Form should be filled out online or submitted by mail if you are an individual who was notified of the Data Incident by letter from Gifted Nurses, LLC d/b/a Gifted Healthcare, and you wish to sign up for credit monitoring and Identity Theft Protection Services, had out-of-pocket expenses or lost time spent dealing with the Data Incident, or wish to receive an Alternative Cash Payment. You may get a check if you fill out this Claim Form, if the Settlement is approved, and if you are found to be eligible for a payment.

The Detailed notice describes your legal rights and options. Please visit the official Settlement Website, www.GiftedNursesDataBreachSettlement.com or call (833)425-4872 for more information.

If you wish to submit a claim for a Settlement payment, you need to provide the information requested below. Please print clearly in blue or black ink. This Claim Form must be mailed and postmarked by **September 16, 2024**. Alternatively, you may submit a claim using the online form located on the Settlement Website listed above.

TO RECEIVE BENEFITS FROM THIS SETTLEMENT, YOU MUST PROVIDE ALL OF THE REQUIRED INFORMATION BELOW AND YOU MUST SIGN THIS CLAIM FORM. THIS CLAIM FORM SHOULD ONLY BE USED IF A CLAIM IS BEING MAILED IN AND IS NOT BEING FILED ONLINE.



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1. Class Member Information

First Name MI Last Name Suffix

Mailing Address: Street Address/P.O Box (include Apartment/Suite/Floor Number)

City State Zip Code

Current E-mail Address (Optional) @

(____)____-____
Current Phone Number (Required)

Settlement Claim ID (required): **83210**_____

2. Identity Theft Protections Services

Three years of Identity Theft Protection Services

Check the box above if you wish to receive three years of credit monitoring and Identity Theft Protection Services (including \$1,000,000 in identity theft insurance) at no cost to you. If your claim is approved you will receive an activation for the service by mail or email, along with instructions on how to activate the service. If you select this benefit, you may also claim reimbursement for Ordinary Losses, Extraordinary Losses, and Lost Time.

3. Payment of Ordinary Losses, Extraordinary Losses, and Lost Time

Please provide as much information as you can to help us figure out if you are entitled to a Settlement payment.

PLEASE PROVIDE THE INFORMATION LISTED BELOW:

Check the box for each category of out-of-pocket expenses or lost time that you incurred as a result of the Data Incident. Please be sure to fill in the total amount you are claiming for each category and to attach documentation as described (if you provide account statements as part of proof for any part of your claim, you may mark out any unrelated transactions if you wish).

Lost Time attributable to the Data Incident

Settlement Class Members may make a claim for self-certified time spent related to the effects or potential effects of the Data Incident. Each Settlement Class Member may claim up to \$80 of Lost Time (calculated at \$20/hour, up to 4 hours) by simply attesting to the fact that they expended such time and describing how the time was spent.

I spent this many hours of time related to the Data Incident: _____ (round to the nearest 0.1 (6 minutes)).

Briefly describe how you spent that time in the space below:



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Ordinary Losses fairly traceable to the Data Incident

Class Members may make a claim for documented Ordinary Losses related to the Data Incident, up to a maximum amount of \$400.

“Ordinary Losses” means the following out-of-pocket expenses fairly traceable to the Data Incident: (i) bank fees, long distance phone charges, cell phone charges (only if charged by the minute), data charges (only if charged based on the amount of data used), miscellaneous qualified expenses subject to explanation, such as postage, notary, fax, copying, mileage, and/or gasoline for local travel; and (ii) fees for credit reports, credit monitoring, and/or other identity theft insurance product purchased between the date of the Data Incident and **September 16, 2024**.

Total amount claimed for this category: \$ _____ . _____ (maximum \$400)

Please describe the categories of Ordinary Losses you are claiming, and be sure to attach all documentation you have relating to these expenses:

Extraordinary Losses fairly traceable to the Data Incident

Class Members may make a claim for documented Extraordinary Losses related to the Data Incident, up to a maximum amount of \$4,000.

“Extraordinary Losses” means unreimbursed costs or expenditures (other than Ordinary Losses) incurred and fairly traceable to the Data Incident. Extraordinary Losses include, without limitation, the unreimbursed costs, expenses, losses or charges incurred a result of identity theft or identity fraud, falsified tax returns, or other possible misuse of information compromised in the Data Incident, and including accountant’s fees related to any credit freezes.

Total amount claimed for this category: \$ _____ . _____ (maximum \$4,000)

Please describe the categories of Extraordinary Losses you are claiming, and be sure to attach all documentation you have relating to these expenses:

You must represent under penalty of perjury that the losses relating to the claim are true and accurate.

I declare under penalty of perjury that the information supplied for Extraordinary Losses is true and correct to the best of my recollection.

_____/_____/_____
Signature **Date (mm/dd/yyyy)**

Print Name



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4. Alternative Cash Payment

\$50 Alternative Cash Payment. (If You Check This Box You Will Not Receive Any Settlement Benefits Other Than a \$50.00 Payment).

Check the box above if, in lieu of all of the other benefits under numbers 2 and 3 above, you instead wish to receive a cash payment of \$50. If you choose this Alternative Cash Payment you cannot also choose to receive Identity Theft Protection Services and you cannot choose to receive reimbursement for Lost Time, Ordinary Losses, or Extraordinary Losses.

5. Sign and Date Your Claim Form

_____/_____/_____
Signature Date (mm/dd/yyyy)

Print Name

6. Reminder Checklist

- Keep copies of the completed Claim Form and documentation for your own records.
- If your address changes or you need to make a correction to the address on this Claim Form, please visit the Settlement Website at **www.GiftedNursesDataBreachSettlement.com** and complete the Contact Us form or send written notification of your new address. Make sure to include your Settlement Claim ID and your phone number in case we need to contact you in order to complete your request.
- Please do not provide any sensitive documents that may contain personal information via email to the Settlement Administrator. If you need to supplement your claim submission with additional documentation, please contact the Settlement Administrator.

For more information, please visit the Settlement Website at **www.GiftedNursesDataBreachSettlement.com**, or call the Settlement Administrator at **(833)425-4872**. Please do not call the Court or the Clerk of the Court for additional information.

Exhibit F

Exclusion List

Count	Record Identificatoin Number
1	8302110CJ5385

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

CHERYL COVINGTON,)
individually and on behalf of all)
others similarly situated,)

Plaintiff)

V.)

GIFTED NURSES, LLC d/b/a)
GIFTED HEALTHCARE)

Defendant)

Case No. 1:22-cv-04000-VMC

[PROPOSED] FINAL APPROVAL ORDER

Plaintiff, Cheryl Covington, and Defendant, Gifted Nurses, LLC d/b/a Gifted Healthcare, have entered into a proposed Class Action Settlement Agreement (the “Settlement” or “Settlement Agreement”). The Court previously granted preliminary approval to the Settlement, notice was issued to the Class Members, and the deadlines to opt out or object to the Settlement have now passed. Plaintiff has moved the Court to grant final approval of the Settlement under Federal Rule of Civil Procedure 23(e)(2). Defendant does not oppose the motion.

ACCORDINGLY, IT IS HEREBY ORDERED:

1. Terms capitalized herein and not otherwise defined shall have the meanings ascribed to them in the Settlement Agreement.

2. This Court has jurisdiction over the subject matter of this lawsuit and jurisdiction over the Class Representative and Defendant in the above-captioned case (the “Parties”).

3. The Court finds that the proposed Settlement Class, defined as follows, meets the requirements for certification for purposes of entry of judgment:

All individuals whose Personal Information was compromised as a result of the Data Incident.¹

The persons identified by the Settlement Administrator in its declaration on file with the Court as having timely submitted requests for exclusion are excluded from the Settlement Class

4. Specifically, the Court finds that the requirements of Rule 23(a) and 23(b)(3) are met:

- a. The class is so numerous that joinder of all members is impracticable, as there are thousands of class members;
- b. There are questions of law or fact common to the class based upon the claims raised in the lawsuit relating to the Data Incident that predominate over questions affecting only individual members;
- c. The claims of the Class Representative are typical of the claims of the Settlement Class as they arise from the Data Incident;

¹ “Data Incident” means the incident from approximately August 25, 2021, to December 10, 2021, during which an unauthorized third party gained access to Defendant’s employee email account systems, resulting in the unauthorized disclosure of the Plaintiff’s and Class Members’ personally identifying information and other sensitive, non-public financial information (collectively, “Personal Information”).

- d. The Class Representative and Class Counsel will fairly and adequately protect the interests of the Settlement Class;
- e. Questions of law or fact common to the Class Members predominate over any questions affecting only individual members and a class action is superior to other available methods for fairly and efficiently adjudicating this lawsuit.

5. The Court therefore certifies the Settlement Class, appoints Plaintiff as the Class Representative, and appoints Cohen & Malad, LLP; Stranch, Jennings & Garvey, PLLC; and Strauss Borrelli, LLP as Class Counsel.

6. The Court finds that notice of the proposed Settlement was provided to the Settlement Class and that the notice met the requirements of Rule 23 and Due Process.

7. The Court finds that the terms of the Settlement represent a fair, reasonable, and adequate compromise under the circumstances of this case. Specifically, the Court finds that:

- (A) the Class Representatives and Class Counsel have adequately represented the Class;
- (B) the proposal was negotiated at arms' length;
- (C) the relief provided for the class appears adequate, taking into account:
 - (i) the costs, risks, and delay of trial and appeal;
 - (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing Class Member claims;

(iii) the terms of any proposed award of attorneys' fees, including timing of payment; and

(iv) any agreement required to be identified under Rule 23(e)(3); and

(D) the proposal treats Class Members equally.

8. The Court therefore grants final approval to the Settlement and directs the parties to the Settlement Agreement to perform and satisfy the terms and conditions that are triggered by the Court's final approval.

9. Upon the occurrence of the Effective Date, the Class Representative and the Class Members release and forever discharge Defendant and its insurers, and including but not limited to their current and former officers, directors, employees, attorneys and agents from all known and unknown claims, demands, damages, causes of action or suits seeking damages, or other legal or equitable relief arising out of or in any way related to the claims asserted or which could have been asserted in the Lawsuit relating to the Data Incident.

10. Upon the occurrence of the Effective Date, Defendant releases all claims of any kind or nature that have been or could have been asserted against the Class Representative or Class Counsel relating to the claims in this lawsuit, or the filing or prosecution of any lawsuit relating to such claims.

11. This Order is a final judgment because it disposes of all claims against all parties to this lawsuit.

THERE BEING NO JUST REASON FOR DELAY, LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: _____

Victoria M. Calvert, District Judge