

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: MOVEIT CUSTOMER DATA
SECURITY BREACH LITIGATION

MDL No. 1:23-md-03083-ADB-PGL

Judge Allison D. Burroughs

This Document Relates To:

1:23-cv-13014-ADB
1:23-cv-13015-ADB
1:23-cv-13026-ADB
1:23-cv-13019-ADB
1:23-cv-13018-ADB
1:23-cv-13020-ADB
1:23-cv-12524-ADB
1:23-cv-13025-ADB
1:23-cv-12736-ADB
1:24-cv-10031-ADB
1:23-cv-13077-ADB

ORDER OF PRELIMINARY APPROVAL

WHEREAS, a Settlement Agreement, dated as of August 12, 2024 (the “Settlement Agreement”), was made and entered into by and among the following Parties: (i) Plaintiffs Danielle Schafer, Eliot Frankenberger, Gina Sligh, Charles Gentry, Robbin Zeigler, Kevan Seidner, Judy Paynter, Keith Sennefelder, David L. Pratt, Joyce Oguin, Timothy Hayden, Ahmad Hakemi, and Don Swekoski, Jr. (collectively, the “Settlement Class Representatives”), individually and on behalf of the Settlement Class Members, by and through E. Michelle Drake of Berger Montague, PC, Gary F. Lynch of Lynch Carpenter, LLP, Douglas J. McNamara of Cohen Milstein Sellers & Toll PLLC, Karen H. Riebel of Lockridge Grindal Nauen PLLP, Charles E. Schaffer of Levin Sedran & Berman LLP, and Kristen A. Johnson of Hagens Berman Sobol

Shapiro LLP (collectively, “Class Counsel”); and (ii) Arietis Health, LLC (“Arietis” or “Defendant”), for the benefit of all Defendant Released Parties.

NOW THEREFORE, having reviewed and considered the submissions presented with respect to the settlement set forth in the Settlement Agreement and the record in these proceedings, having heard and considered the evidence presented by the parties and the arguments of counsel, having determined preliminarily that the settlement set forth in the Settlement Agreement is fair, reasonable, adequate, and in the best interests of the Class;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

1. The Court incorporates by reference the definitions set forth in the Settlement Agreement.¹
2. The Court finds it has personal and subject-matter jurisdiction over this matter, the Parties, and all Settlement Class Members.

Preliminary Settlement Class Certification

3. The Court certifies, for settlement purposes only, the following Settlement Class pursuant to [Fed. R. Civ. P. 23](#):

All persons in the United States who provided their personal information and/or personal health information—including: (1) dates of birth; (2) Social Security Numbers; (3) driver’s license numbers; (4) parent’s maiden names; (5) digital signatures; (6) medical record numbers; (7) patient account numbers; (8) Medicare numbers; (9) Medicaid numbers; (10) health insurance account and group numbers; (11) medical history information; (12) medical diagnosis information; (13) medical treatment/procedure information; (14) medical provider information; (15) clinical information; and (16) prescription information—to Arietis, directly or indirectly, and whose personal identifying information and/or personal health information was included in files affected by the MOVEit Security Incident

Excluded from the Settlement Class are: (i) Arietis, and Arietis’s officers, directors, legal representatives, successors, subsidiaries, and assigns; (ii) any judge, justice, or judicial officer presiding over the Actions and the members of their immediate

¹ All capitalized terms in this Order adopt the definitions of those terms from the Settlement.

families and judicial staff; and (iii) any individual who timely and validly opts out of the Settlement.

4. The Court determines that for settlement purposes only, the proposed Settlement Class likely meets all the requirements of Federal Rules of Civil Procedure (“Rules”) 23(a) and (b)(3):

a. Numerosity: Rule 23(a)(1) requires that a proposed settlement class be “so numerous that joinder of all class members is impracticable.” Fed. R. Civ. P. 23(a)(1). Here, there are approximately 1,900,000 Settlement Class Members. The Court finds that numerosity is satisfied.

b. Commonality: Rule 23(a)(2) requires that there be “questions of law or fact common to the class.” Fed. R. Civ. P. 23(a)(2). Here, the Settlement Class Members are joined by the common questions of law and fact that arise from the same alleged event—the MOVEit Security Incident. The common questions include: whether Arietis owed Plaintiffs and the Settlement Class a duty to reasonably secure their personal and health information; whether Arietis breached its duty by implementing inadequate data security, failing to protect data transferred via MOVEit, and failing to patch vulnerabilities within MOVEit; whether Arietis’s breach of duty caused Plaintiffs’ and the Settlement Class’s harm, including the theft of their personal and health information; whether Plaintiffs and the Settlement Class suffered harm due to the theft and potential misuse of their personal and health information; and whether Plaintiffs and the Settlement Class’s damages are reasonably quantifiable. Commonality is satisfied.

c. Typicality: Rule 23(a)(3) requires that “the claims or defenses of the representative parties [be] typical of the claims or defenses of the class.” Fed. R. Civ. P. 23(a)(3). Plaintiffs satisfy the typicality requirement because their claims arise from the

same factual nexus and are based on the same legal theories as the claims of members of the Settlement Class. Like Plaintiffs, other members of the Settlement Class were subject to the alleged MOVEit Security Incident and have suffered the same type of injuries.

d. Adequacy: The adequacy requirement is satisfied when “the representative parties will fairly and adequately protect the interests of the class.” Fed. R. Civ. P. 23(a)(4). The Court finds that the proposed Settlement Class Representatives have fulfilled their responsibilities on behalf of the Settlement Class. The Court further finds that Co-Lead Counsel have prosecuted the case vigorously and in the best interests of the Settlement Class. Adequacy of representation is satisfied.

e. Predominance: Rule 23(b)(3) requires that “questions of law or fact common to class members predominate over any questions affecting only individual members.” Fed. R. Civ. P. 23(b)(3). Here, the many common questions of fact and law that arise from the alleged MOVEit Security Incident and Defendant’s alleged conduct predominate over any individualized issues.

f. Superiority: Rule 23(b)(3) also requires a finding that class treatment is “superior to other available methods for fairly and efficiently adjudicating the controversy.” Fed. R. Civ. P. 23(b)(3). Class resolution is superior to other available means for the fair and efficient adjudication of the claims in this case. Here, potential damages suffered by individual Settlement Class Members are relatively low-dollar amounts and would be uneconomical to pursue on an individual basis given the burden and expense of prosecuting individual claims. Moreover, there is little doubt that resolving all Settlement Class Members’ claims jointly, particularly through a class-wide settlement negotiated on

their behalf by counsel well-versed in class action litigation, is superior to a series of individual lawsuits and promotes judicial economy.

5. For purposes of settlement only, Plaintiffs Danielle Schafer, Eliot Frankenberger, Gina Sligh, Charles Gentry, Robbin Zeigler, Kevan Seidner, Judy Paynter, Keith Sennefelder, David L. Pratt, Joyce Oguin, Timothy Hayden, Ahmad Hakemi, and Don Swecoski, Jr. are preliminarily appointed as the Settlement Class Representatives.

6. For purposes of settlement only, the Court preliminarily appoints, pursuant to Rule 23(g), E. Michelle Drake of Berger Montague, PC, Gary F. Lynch of Lynch Carpenter, LLP, Douglas J. McNamara of Cohen Milstein Sellers & Toll PLLC, Karen H. Riebel of Lockridge Grindal Nauen PLLP, Charles E. Schaffer of Levin Sedran & Berman LLP, and Kristen A. Johnson of Hagens Berman Sobol Shapiro LLP as Class Counsel for the Settlement Class.

Reasonableness of the Proposed Settlement

7. The Court finds that: (i) the proposed Settlement resulted from extensive and good-faith negotiations at arms' length overseen by an experienced mediator, Judge Diane M. Welsh (Ret.); (ii) the proposed Settlement is in the best interests of the Settlement Class Members; and (iii) the terms of the proposed Settlement as evidenced by the Settlement Agreement appear to be sufficiently fair, reasonable, and adequate in light of the risks, delays, and expenses of further litigation, warranting notice of the Settlement Agreement to Settlement Class Members, and the scheduling of a final fairness hearing.

8. The Court finds that the proposed Settlement creates an equitable claims process that will allow Settlement Class Members an opportunity to obtain reimbursement for certain types of harm they may have suffered and to receive medical data monitoring, credit monitoring, and identity theft protection services to prevent against the future risk of harm experienced as a result of the events alleged in the Litigation. This consideration appears to be within the range of

reasonableness and an adequate exchange for the Settlement Class's release of claims as described in the Settlement Agreement.

9. Accordingly, the Court grants preliminary approval of the Settlement, subject to final approval, and directs the Parties to conduct their plan for Notice as described in the Settlement Agreement.

Notice to the Settlement Class

10. The Court finds that the Notice proposed in the Settlement Agreement, including in form, content, and method: (a) constitutes the best practicable notice to the Settlement Class; (b) is reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Litigation, the terms of the proposed Settlement, and their rights under the proposed Settlement; (c) is reasonable and constitutes due, adequate, and sufficient notice to those persons entitled to receive notice; and (d) satisfies the requirements of Rule 23, the constitutional requirement of due process, and any other legal requirements. The Court further finds that the notices are written in plain language, use simple terminology, and are designed to be readily understandable by Settlement Class Members.

11. The Parties and Settlement Administrator are authorized to make non-material modifications to the Notices and Claim Form, such as proofing and formatting alterations, without further order from this Court.

12. The Court appoints Epiq Class Action & Claims Solutions, Inc. as the Settlement Administrator and orders it to provide Notice to the Settlement Class Members and perform services as set forth in the Settlement Agreement, which includes providing the requisite CAFA Notice as set forth in the Settlement Agreement.

13. The Court orders Defendant to preliminarily fund the Settlement Fund to pay for the Costs of Notice and Administration pursuant to the Settlement Agreement.

14. Within sixty (60) days after the entry of this Order, Defendant shall provide the Settlement Administrator with the Class List containing Settlement Class Members' names, last known addresses, and email addresses, if either or both are available, as reflected in Arietis' records.

15. Within sixty (60) days after receipt of the Class List, the Settlement Administrator shall send, via email to persons listed on the Class List for whom an email address has been identified, the Short Form Notice substantially in the form submitted to the Court; and if no valid email address is found for a Settlement Class Member, such Short Form Notice shall be sent by the Settlement Administrator to the Settlement Class Member's last known mailing address via U.S. mail. The Long Form Notice as well as the Claim Form shall be posted on a Settlement Website to be created by the Settlement Administrator. Further, Defendant shall provide Notice of the Settlement on its website. The Settlement Administrator shall also establish a toll-free phone line for Settlement Class Members to call in order to receive information about the Settlement. Finally, before the end of the Claims Period, the Settlement Administrator shall send the Reminder Notice to all Settlement Class Members who have not submitted a Claim for whom an email address can be found.

Claims Process and Distribution Plan

16. The Settlement establishes a process for assessing and determining the validity of the types of claims available (reimbursement for Out-of-Pocket Losses, compensation for Lost Time, and enrollment in medical data monitoring, credit monitoring, and identity theft and protection services), and a methodology for providing the Settlement benefits to the Settlement Class Members who submit a timely, valid Claim Form. The Court preliminarily approves this process and the proposed Settlement Benefits Plan.

17. Settlement Class Members who qualify for and wish to submit a Claim Form shall do so in accordance with the requirements and procedures specified in the Notice and the Claim Form and must submit a Claim to the Settlement Administrator within ninety (90) days after the Notice Deadline.

Exclusions from the Class

18. Any Settlement Class Member who wishes to be excluded from the Settlement Class must mail a written notification of the intent to exclude themselves to the Settlement Administrator, at the address provided in the Notice, postmarked no later than sixty (60) days after the Notice Deadline (the “Opt-Out Deadline”) and sent via first class postage pre-paid United States mail. The written request for exclusion must include the name of this Litigation or a decipherable approximation (*In Re: MOVEit Customer Data Security Breach Litigation*, 1:23-md-03083-ADB (D. Mass.) (Arietis Actions)); the full name, address, and telephone number of the Settlement Class Member or the name, address, telephone number, relationship, and signature of any individual who is acting on behalf of a deceased or incapacitated Settlement Class Member; and the words “Opt Out Request” or “Request for Exclusion” at the top of the document or a statement in the body of the document requesting exclusion from the Settlement.

19. All Settlement Class Members who submit valid and timely notices of their intent to be excluded from the Settlement shall not receive any benefits of or be bound by the terms of the Settlement. Any Settlement Class Member who does not timely and validly exclude himself or herself from the Settlement shall be bound by the terms of the Settlement. If final judgment is entered, any Settlement Class Member who has not submitted a timely, valid written notice of exclusion from the Settlement (in accordance with the requirements of the Settlement) shall be bound by all subsequent proceedings, orders, and judgments in this matter, the Settlement

including, but not limited to, the releases set forth in the Settlement Agreement, and the Final Approval Order and Judgment.

Objections to the Settlement

20. A Settlement Class Member who complies with the requirements of this Order may object to the Settlement, the request of Settlement Class Counsel for an award of attorneys' fees, and expenses, and/or the request for a Service Award.

21. No Settlement Class Member shall be heard and no papers, briefs, pleadings, or other documents submitted by any Settlement Class Member shall be received and considered by the Court unless the objection is (a) filed with the Court by the Objection Deadline; or (b) mailed first-class postage prepaid to the Clerk of Court and the Settlement Administrator at the addresses listed in the Notice, and postmarked no later than the Objection Deadline, which shall be sixty (60) days after the Notice Deadline, as specified in the Notice. For the objection to be considered by the Court, the objection shall set forth:

- a. Clearly identify the case name and number (*In Re: MOVEit Customer Data Security Breach Litigation*, 1:23-md-03083-ADB (D. Mass.) (Arietis Actions));
- b. the full name, address, telephone number, and email address of the person objecting;
- c. the full name, address, telephone number, and email address of the objector's counsel (if the objector is represented by counsel);
- d. state whether the objection applies only to the objector, to a specific subset of the Settlement Class, or to the entire Settlement Class, and also state with specificity the grounds for the objection;
- e. confirm whether the objector or counsel on the objector's behalf will personally appear and/or testify at the Final Approval Hearing; and
- f. provide the objector's signature and the signature of the objector's duly authorized counsel or other duly authorized representative.

22. In addition, any Settlement Class Member who objects to the proposed Settlement must make himself or herself available to be deposed regarding the grounds for the objection and must provide, along with the objection, the dates when the objector will be available to be deposed during the period from when the objection is filed through the date seven days before the Final Approval Hearing.

23. Any Settlement Class Member who fails to comply with the provisions in this Order will waive and forfeit any and all rights he or she may have to object, and shall be bound by all the terms of the Settlement Agreement, this Order, and by all proceedings, orders, and judgments, including, but not limited to, the releases in the Settlement Agreement, if finally approved. Any Settlement Class Member who both objects to the Settlement and opts out will be deemed to have opted out and the objection shall be deemed null and void.

Stay of Proceedings

24. Except as necessary to effectuate this Order, the above captioned cases and any deadlines set by the Court in this matter are stayed and suspended as to Arietis only pending the Final Approval Hearing and issuance of the Final Approval Order and Judgment, or until further order of this Court.

Continuance of Final Approval Hearing

25. 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.

Actions by Settlement Class Members

26. Pending the Final Approval Hearing and the issuance of the Judgment and Final Approval Order, the Court stays and enjoins any actions, lawsuits, or other proceedings pending

before this or any other Court brought by any Settlement Class Member or Members against Arietis related to the Released Claims. The Court finds that issuance of this Preliminary Approval is necessary and appropriate.

Final Approval Hearing

27. Final Approval Hearing shall take place before the Court on April 3, 2025 at 11:00 a.m. in Courtroom 17 before Judge Allison D. Burroughs of the United States District Court for the District of Massachusetts, John Joseph Moakley U.S. Courthouse 1 Courthouse Way, Boston, Massachusetts 02210, to determine, among other things, whether: (a) the Settlement should be finally approved as fair, reasonable, and adequate and, in accordance with the Settlement Agreement's terms, all claims in the Litigation should be dismissed with prejudice as to the Defendant Released Parties; (b) Settlement Class Members should be bound by the releases set forth in the Settlement Agreement; (c) the proposed Final Approval Order and Judgment should be entered; (d) the application of Class Counsel for an award of attorneys' fees and expenses should be approved; and (e) the application for a Service Awards to the Settlement Class Representatives should be approved. Any other matters that the Court deems necessary and appropriate will also be addressed at the hearing.

28. Settlement Class Counsel shall submit their application for fees, costs, and expenses and the application for Service Awards at least twenty-one (21) days before the Opt-Out/Objection Deadline. Objectors, if any, shall file any response to Class Counsel's motions no later than seventeen (17) days prior to the Final Approval Hearing. By no later than ten (10) days prior to the Final Approval Hearing, responses shall be filed, if any, to any filings by objectors, and any replies in support of final approval of the Settlement Agreement and/or Class Counsel's application for attorneys' and expenses and for Service Award shall be filed.


29. Any Settlement Class Member who has not timely and properly excluded himself or herself from the Settlement Class in the manner described above, may appear at the Final Approval Hearing in person or by counsel and be heard, to the extent allowed by the Court, regarding the proposed Settlement; provided, however, that no Settlement Class Member who has elected to exclude himself or herself from the Class shall be entitled to object or otherwise appear, and, further provided, that no Settlement Class Member shall be heard in opposition to the Settlement unless the Settlement Class Member complies with the requirements of this Order pertaining to objections, which are described above and in the Notice.

30. The Settlement, as preliminarily approved in this Order, shall be administered according to its terms pending the Final Approval Hearing. Deadlines under the Settlement and this Order include but are not limited to the following:

EVENT	DEADLINE
Arietis Provides Class List to Settlement Administrator	11/04/2024
Notice Deadline	01/03/2025
Objection and Opt-Out Deadlines	03/04/2025
Claim Deadline	04/03/2025
Motion for Attorneys' Fees and Expenses and Service Award	02/11/2025
Motion for Final Approval	03/04/2025
Objections, if any, to Motion for Final Approval	03/17/2025
Reply in Support of Motion for Final Approval	03/24/2025
Final Approval Hearing	04/03/2025

IT IS SO ORDERED.

DATED: 9/9/2024, 2024


 The Honorable Allison D. Burroughs
 United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that, on this date, the foregoing document was filed electronically via the Court's CM/ECF system, which will send notice of the filing to all counsel of record.

Dated: September 6, 2024

/s/ Kristen A. Johnson
Kristen A. Johnson (BBO# 667261)