

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

RACHEL WILLIAMS AND GENOVEVA)
MILTON, on behalf of themselves and all)
others similarly situated,)
)
Plaintiffs,)
)
v.)
)
AIR METHODS, LLC,)
)
Defendant)
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)
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Case No. 1:24-CV-00642-NRN

**PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT AND MEMORANDUM IN SUPPORT**

Plaintiffs Rachel Williams and Genoveva Milton (“Plaintiffs”) submit this Motion and Memorandum in Support of Plaintiffs’ Unopposed Motion for Preliminary Approval of Class Action Settlement. Defendant Air Methods, LLC (“Air Methods”) has represented that it does not oppose this motion.

I. INTRODUCTION

This litigation arises from the alleged access to personal identifying information (“PII”) as a result of a November 2023 stolen laptop incident experienced by Defendant (the “Security Incident”). Plaintiffs and Class Members include current and former customers of Air Methods, and air ambulance service operating in Colorado.

After extensive arm’s length negotiations, the parties have reached a settlement that is fair, adequate, and reasonable. The agreement creates a \$240,000 non-reversionary Settlement Fund where Class Members can easily submit a claim for an estimated \$75 pro rata cash payment, reimbursement of documented out-of-pocket expense award of up to \$2500, and two-years of Identity Defense Total Credit Monitoring. Plaintiffs strongly believe the settlement is favorable to the Settlement Class.

Pursuant to Rule 23(e), Plaintiffs move the Court for an order certifying the class for settlement purposes, preliminarily approving the proposed settlement agreement, and approving the content and manner of the proposed notice process. Accordingly, and relying on the following memorandum of points and authorities, the Supporting Declaration of Plaintiffs’ Counsel and attached exhibits filed herewith, Plaintiffs respectfully request the Court preliminarily approve the Parties’ Settlement Agreement and issue the proposed order attached to Settlement Agreement (**Exhibit 1** to this motion) as Exhibit D.

II. CASE SUMMARY

A. The Security Incident

This is a nationwide class action brought by Plaintiffs on behalf of themselves, and a class of “All individuals residing in the United States whose Private Information was compromised in the data breach announced by Defendant in February 2024, and who were sent direct notice of the data breach (the “Class”).” (*See generally* Plaintiffs’ Second Amended Complaint (“SAC”), ECF No. 18, ¶ 162.) In their SAC, Plaintiffs alleged individually and on behalf of a putative class that, as a direct result of the Security Incident, Plaintiffs and Class Members suffered numerous injuries and would likely suffer additional harm in the future. Plaintiffs’ claims for alleged damages and remedies included the following categories of harms: (i) the current and imminent risk of fraud and identity theft; (ii) the lost or diminished value of the PII; (iii) the out-of-pocket expenses associated with the prevention, detection, and recovery from identity theft, tax fraud, and/or unauthorized use of their PII; (iv) the lost opportunity costs associated with attempting to mitigate the actual consequences of the Security Incident, including but not limited to lost time; (v) the continued and certainly increased risk to their PII, which remains unencrypted and available for unauthorized third parties to access and abuse; (vi) the invasion of privacy; (vii) the compromise, disclosure, theft, and unauthorized use of Plaintiffs’ and the Class Members’ PII; and (viii) the emotional distress, fear, anxiety, nuisance, and annoyance related to the theft and compromise of their PII.

Plaintiffs, individually and on behalf of other members of the Class, asserted claims for (i) negligence; (ii) negligence *per se*; (iii) breach of implied contract; and (iv) unjust enrichment. Plaintiffs also sought injunctive relief, equitable relief, actual, statutory, nominal, and consequential damages, and all other relief as authorized in equity or by law. Defendant denies all claims, allegations of wrongdoing, and denies all liability.

B. Procedural Posture

On March 8, 2024, Plaintiff Rachel Williams filed the first complaint against Defendant in this Court for claims arising from the Security Incident. On March 15, 2024, Plaintiff Geneveva Milton filed a second related Complaint in this Court. On May 29, 2023, Plaintiff Milton dismissed her separate action, and agreed to be added as an additional plaintiff to the *Williams* action. Also on May 29, 2024, the Plaintiffs filed their Amended Complaint in the Williams action. ECF No. 14. Subsequently, on July 11, 2024, Plaintiffs filed their Second Amended Complaint (“SAC”), correcting by stipulation a misnomer of the Defendant (which had changed its name and corporate structure to an LLC in 2023). ECF Nos. 17 and 18. In their SAC, Plaintiffs alleged individually and on behalf of a putative class that, as a direct result of the Security Incident, Plaintiffs and Class Members suffered numerous injuries and would likely suffer additional harm in the future.

Soon after the two initial complaints were filed, the Parties began discussing the prospect for early resolution. These talks were spurred on by Defendant producing informal discovery that addressed the manner and mechanism of the Security Incident (i.e. a stolen laptop, as opposed to a cybersecurity breach perpetrated by a cybercriminal), the number of impacted individuals who received direct notice of this Security Incident, and Defendant’s notice program and incident response. Prior to resolving the matter, the Parties engaged in a considerable amount of this informal discovery, spanning several weeks.

Ultimately, after hard-fought, arms-length negotiations, the Parties were able to reach a resolution. The agreed resolution or settlement is memorialized in the Settlement Agreement (“S.A.”), attached hereto as **Exhibit 1**. The Settlement Agreement provides for the resolution of all claims and causes of action asserted, or that could have been asserted, against Defendant and

the Released Parties relating to the Security Incident and this Action, by and on behalf of Plaintiffs and Class Members.

III. SUMMARY OF SETTLEMENT

A. Settlement Benefits

The settlement negotiated on behalf of the Class provides for a \$240,000 non-reversionary Settlement Fund and a claims process through which Class Members can easily submit for substantial settlement benefits. The settlement provides for relief for the approximately 24,568 members of the Settlement Class defined as follows:

The approximately 24,568 individuals who received direct notification that their Personal Information may have been implicated in the Security Incident.

The Class specifically excludes: 1) Air Methods, LLC and its officers and directors; (2) all Persons who submit a timely and valid request for exclusion from the Settlement Class; (3) the Court; and (4) any person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity occurrence of the Security Incident, or who pleads *nolo contendere* to any such charge S.A. ¶ 30.

The benefits that Settlement Class can claim from the non-reversionary common fund include the following:

- a) \$75 Pro-Rata Cash Payment. Settlement Class Members may claim a pro rata cash payment from the Settlement Fund, estimated to be \$75 (based upon historic claims rates in similar data privacy settlements). After the distribution of attorneys' fees, Class Counsel's litigation expenses, Administrative Fees, Service Awards, Documented Out-of-Pocket Expense Claims, and the cost of the Identity Defense Total Credit Monitoring, the Settlement Administrator will make pro rata settlement payments of the remaining Settlement Fund to each Class Member who submits a valid claim. This

may cause a pro rata increase or decrease of the estimated \$75 cash payment. No documentation or attestation is required. S.A. ¶ 50.

- b) Documented Out-of-Pocket Expense Claims. Class Members can submit claims for reimbursement of documented out-of-pocket losses reasonably traceable to the Security Incident up to \$2,500 per individual (“Out-of-Pocket-Expense Claims”). “Documented Out-of-Pocket Losses” means the unreimbursed costs or expenditures incurred by a Settlement Class Member between November 9, 2023 and the Claims Deadline, as result of the Security Incident. Documented Out-of-Pocket Losses may include, but are not limited to, unreimbursed costs, expenses, or charges incurred addressing or remedying identity theft, fraud, or misuse of personal information and/or other issues reasonably traceable to the Security Incident. S.A. ¶ 47.
- c) Identity Theft Protection and Credit Monitoring. Settlement Class Members may submit a Claim for two (2) years of Identity Defense Total Credit Monitoring, a state-of-the-art identity theft and credit monitoring product provided by CyEx. S.A. ¶ 51.

Given the fact that all the net money in the Settlement Fund will be “swept out” of the Settlement Fund and distributed to Settlement Class Members via the pro rata cash payments, the only anticipated residual funds will be from uncashed checks or unnegotiated electronic payments. The total amount of uncashed Settlement checks will be paid to a charitable organization to be agreed upon by Defendant and Class Counsel and approved by the Court. S.A. ¶ 55.

B. The Notice and Claims Process

After evaluating competitive bids, the Parties have agreed to use Simpluris as Settlement Administrator in this case. S.A. ¶ 29. The cost of notice and claims administration is estimated to

be approximately \$38,940. Declaration of David Lietz (“Lietz Decl.”), attached hereto as Exhibit 2, ¶ 31.

1. Notice

The current and agreed upon Notice Plan calls for direct and individual Notice, in the form of summary postcards, to be provided to Class Members via United States Postal Service first class mail. S.A. ¶ 58(b). The Settlement Administrator will also establish a dedicated settlement website and will maintain and update the website throughout the claim period, with the forms of Postcard Notice, Long Form Notice, and Claim Form approved by the Court, as well as the Settlement Agreement. S.A. ¶ 32. The Settlement Administrator will also make a toll-free telephone line for Class Members to call with Settlement-related inquiries, and establish and maintain a post office box for mailed written notifications of exclusion or objections from the Settlement Class.

The details of the Notice Program are set out more fully in the Settlement Agreement, and the forms of notice (Long Form and Postcard) are attached thereto as Exhibits B and D.

2. Claims

The timing of the claims process is structured to ensure that all Class Members have adequate time to review the terms of the Settlement Agreement, make a claim, or decide whether they would like to request exclusion or object. S.A. ¶¶ 4, 24, 15. Class Members will have 90 days from the Class Notice Deadline to submit their Claim Form to the Settlement Administrator, either electronically or by mail, and 60 days to object or request exclusion. *Id.* The Claim Form, attached to the Settlement Agreement as Exhibit A, is written in plain language to facilitate Class Members’ ease in completing it. *See* S.A. Ex. A.

To submit a claim for the estimated \$75 pro rata cash payment and the identity theft protection and credit monitoring, Class Members need only confirm and attest to the best of their

knowledge or belief that they are Class Members. For a Reimbursement Award, Class Members must submit documentation showing that they incurred unauthorized or fraudulent charges or Out-of-Pocket Expenses fairly traceable to the Security Incident, that those losses were not otherwise reimbursed, and attest that the claim is true and correct to the best of his or her knowledge or belief. The Settlement Administrator is given the authority to assess the validity of claims. S.A. ¶¶ 58(k), 58(p).

3. *Requests for Exclusion and Objections*

Any Class Members who wish to exclude themselves from or object to the Settlement shall have until 60 days after the Notice Date to do so. S.A. ¶¶ 15, 24. Each Settlement Class Member wishing to exclude themselves from the Settlement Class must individually sign and timely mail a written Request for Exclusion to the address designated by the Settlement Administrator, and clearly manifest intent to opt-out. S.A. ¶ 59. Any Settlement Class Member who files a valid exclusion request shall be excluded from the Settlement Class, and not obtain any benefit hereunder and not offer any release to the Released Parties. S.A. ¶ 60.

Class Members shall have until 60 days after the Notice Date to object to the Agreement. S.A. ¶ 15. Class Members can make objections by mailing the objections to the Settlement Administrator, and Class Counsel shall file all objections with the Court. Objections shall state: (i) the objector's full name, current address, current telephone number, and be personally signed, (ii) the case name and case number, *Williams et al. v. Air Methods, LLC*, Civil Action No.1:24-cv-00642-NRN, (iii) documentation sufficient to establish membership in the Class, such as a copy of the Postcard Notice he or she received, (iv) a statement of the position(s) the objector wishes to assert, including the factual and legal grounds for the position(s), (v) copies of any other documents that the objector wishes to submit in support of his/her position, (vi) whether the objecting

Settlement Class Member intends to appear at the Final Approval Hearing, and (v) whether the objecting Settlement Class Member is represented by counsel and, if so, the name, address, and telephone number of his/her counsel. S.A. ¶ 64.

C. Plaintiffs' Service Awards, Attorneys' Fees and Costs

The Settlement Agreement calls for a reasonable service award to each Class Representative in the amount of \$2,500, subject to Court approval, to be paid solely from the Settlement Fund and subject to Court approval. S.A. ¶ 40.

Class Counsel may file a motion seeking reasonable attorneys' fees in an amount not to exceed one-third (or \$80,000) of the Settlement Fund. S.A. ¶ 41. In addition, Class Counsel may seek their reasonable costs and expenses from the Settlement Fund. The entirety of the Attorneys' Fees and Expenses Award shall be payable solely from the Settlement Fund. Class Counsel will submit a separate motion seeking attorneys' fees, costs, and Plaintiffs' Service Awards no less than 14 days prior to prior to Class Members' deadline to exclude themselves from or object to the Settlement Agreement.

IV. LEGAL AUTHORITY

Federal Rule of Civil Procedure 23(e) requires that any compromise of claims brought on a class basis be subject to judicial review and approval. *See also Rutter & Wilbanks Corp. v. Shell Oil Co.*, 314 F.3d 1180, 1187 (10th Cir. 2002) (approval of a proposed settlement is within the sound discretion of the Court)). The settlement of complex class action litigation is favored by public policy and strongly encouraged by the courts.

Approval of a class action settlement takes place in two stages. In the first stage, the court preliminarily certifies a settlement class, preliminarily approves the settlement agreement, and directs notice to be given to the class. *Ross v. Convergent Outsourcing, Inc.*, 323 F.R.D. 656, 659

(D. Colo. 2018). “The purpose of the preliminary approval process is to determine whether there is any reason not to notify the class members of the proposed settlement and to proceed with a [final] fairness hearing.” *Rhodes*, 308 F.R.D. at 666 (quoting *Lucas v. Kmart Corp.*, 234 F.R.D. 688, 693 (D. Colo. 2006) (Kane, J.)). In the second stage, the court holds a fairness hearing at which it will address the fairness, reasonableness, or adequacy of the settlement terms and grant final approval of the settlement. Fed. R. Civ. P. 23(e)(2); *Rutter*, 314 F.3d at 1188.

“The settlement of a class action may be approved where the Court finds that the settlement is fair, reasonable, and adequate.” *Tuten v. United Airlines, Inc.*, 41 F. Supp. 3d 1003, 1007 (D. Colo. May 19, 2014). “If the proposed settlement discloses no reason to doubt its fairness, has no obvious deficiencies, does not improperly grant preferential treatment to class representatives or segments of the class, does not grant excessive compensation to attorneys, and appears to fall within the range of possible approval, the court should grant preliminary approval.” *In re Pool Prods. Distrib. Mkt. Antitrust Litig.*, 310 F.R.D. at 314-315.

“The purpose at the preliminary approval stage is not to make a final determination of the proposed settlement's fairness.” *Nakkhumpun v. Taylor*, No. 12-CV-01038-CMA-CBS, 2015 WL 6689399, at *3 (D. Colo. Nov. 3, 2015). Thus, “the standard that governs the preliminary approval inquiry is less demanding than the standard that applies at the final approval stage.” *Id.*; see also *Lucas*, 234 F.R.D. at 693. Representative Plaintiffs here seek preliminary approval of the proposed settlement—an initial evaluation of the fairness of the proposed Settlement. See *Manual for Complex Litigation* § 30.44 (4th ed.). “Colorado public and judicial policies favor voluntary agreements to settle legal disputes.” See *Colorado Ins. Guar. Ass’n v. Harris*, 827 P.2d 1139, 1142 (Colo.1992)(*en banc*); *Davis v. Flatiron Materials Co.*, 182 Colo. 65, 511 P.2d 28, 32 (Colo.1973)(*en banc*).

There is a strong presumption in favor of finding Settlement Agreements fair, adequate and reasonable – especially when the settlement of a class action results from arm’s length negotiations between experienced counsel after significant discovery has occurred. *Lucas*, 234 F.R.D. at 693. Compromise is the essence of settlement, and a court may rely on the judgment of experienced counsel for the parties, “and settlements are generally favored.” *Wilkerson v. Martin Marietta Corp.*, 171 F.R.D. 273 (D. Colo. 1997); *Williams v. First Nat’l Bank*, 216 U.S. 582 595 (1910). In granting preliminary approval, the Court determines it will “likely” be able to grant final approval of the Settlement under Rule 23(e)(2) and certify the class for purposes of settlement.

“The Court will ordinarily grant preliminary approval where the proposed settlement appears to be the product of serious, informed, non-collusive negotiations, has no obvious deficiencies, does not improperly grant preferential treatment to class representatives or segments of the class and falls within the range of possible approval.” *Rhodes v. Olson Assocs., P.C.*, 308 F.R.D. 664, 666 (D. Colo. 2015) (citation omitted). Because the proposed Settlement Agreement falls within the range of possible approval, this Court should grant Plaintiffs’ motion and allow notice to be provided to the class.

V. LEGAL DISCUSSION

A. The Court Should Certify the Proposed Class for Settlement Purposes.

Plaintiffs here seeks certification of a Class consisting of “the approximately 24,568 individuals who received direct notification that their Personal Information may have been implicated in the Security Incident.” The *Manual for Complex Litigation (Fourth)* advises that in cases presented for both preliminary approval and class certification, the “judge should make a preliminary determination that the proposed class satisfies the criteria”. MCL 4th, § 21.632.

Under Rule 23, a class action may be maintained where the movants demonstrate: (1) the class is so numerous that joinder is impracticable; (2) the class has common questions of law or fact; (3) the representatives' claims are typical of the class claims; and (4) the representatives will fairly and adequately protect class interests. *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 347 (2011), citing Rule 23(a). Additionally, under Rule 23(b)(3), a class may be maintained where “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.”

Because a court evaluating certification of a class action that settled is considering certification only in the context of settlement, the court's evaluation is somewhat different than in a case that has not yet settled. *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997). In some ways, the court's review of certification of a settlement-only class is lessened: as no trial is anticipated in a settlement-only class case, the case management issues inherent in the ascertainable class determination need not be confronted. *See id.* Other certification issues however, such as “those designed to protect absentees by blocking unwarranted or overbroad class definitions” require heightened scrutiny in the settlement-only class context “for a court asked to certify a settlement class will lack the opportunity, present when a case is litigated, to adjust the class, informed by the proceedings as they unfold.” *Id.*

Despite the necessarily rigorous analysis of certain prongs at the preliminary certification stage, class actions are regularly certified for settlement. In fact, other data breach cases have been certified by this Court. *See Beasley et al. v. TTEC Services Corporation*, Civil Action No. 22-cv-00097-PAB-STV (D. Colo.), ECF 54, May 9, 2023 (order granting preliminary approval of non-reversionary common fund settlement in data breach case); *Jones et al. v. P2ES Holdings, LLC*,

Civil Action No. 23-cv-00408-GPG-MEH (D. Colo.), ECF 39, October 12, 2023 (same). This case is no different.

1. *The Settlement Class is so numerous that joinder is impracticable.*

Numerosity requires “the class [be] so numerous that joinder of all members is impractical.” Fed. R. Civ. P. 23(a)(1). “Class actions have been deemed viable in instances where as few as 17 to 20 persons are identified as the class.” *Rex v. Owens ex rel. State of Okl.*, 585 F.2d 432 (10th Cir. 1978). Here, the threshold required to establish numerosity is surpassed, as the proposed Settlement Class includes approximately 24,568 individuals who had their PII potentially compromised in the Security Incident, and who received direct notice of the Security Incident. The Settlement Class is sufficiently numerous to justify certification.

2. *Questions of law and fact are common to the Settlement Class.*

Commonality requires Plaintiffs to demonstrate “questions of law or fact common to the class.” Fed. R. Civ. P. 23(a)(2). A finding of commonality does not require that all class members share identical situations, and factual differences among the claims of the putative class members do not defeat certification. *DG v. Devaughn*, 594 F.3d 1188, 1195 (10th Cir. 2010). The threshold for meeting this prong is not high—the requirement is satisfied where the plaintiff asserts claims that “depend upon a common contention” that is “of such a nature that it is capable of class-wide resolution—which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke.” *Dukes*, 564 U.S. at 347. Commonality can be satisfied by an instance of the defendant's injurious conduct, even when the resulting injurious effects—the damages—are diverse. *Soseeah v. Sentry Ins.*, No. CIV 12-01091 RB/KK, 2016 WL 7435792, at *4 (D.N.M. 2016), citing *In re Deepwater Horizon*, 739 F.3d 790, 810–11 (5th Cir. 2014).

Here, the commonality requirement is met because Plaintiffs can demonstrate numerous common issues exist. For example, whether Air Methods failed to adequately safeguard the records of Plaintiffs and other Class Members is a question common across the entire class. Air Method's data security safeguards (including safeguards of physical assets containing PII, like the stolen laptop here) were common across the Class, and those applied to the data of one Settlement Class Member did not differ from those safeguards applied to another.

Other specific common issues include (but are not limited to):

- Whether Air Methods failed to implement and maintain reasonable security procedures and practices appropriate to the nature and scope of information compromised in the Security Incident;
- Whether Air Methods' data security practices relating to physical assets prior to and during the Security Incident complied with applicable data security laws and regulations; and
- Whether Air Methods' conduct rose to the level of negligence.

These common questions, and others alleged by Plaintiffs in the SAC, are central to the causes of action brought here, will generate common answers, and can be addressed on a class-wide basis. Thus, Plaintiffs have met the commonality requirement of Rule 23.

3. *Plaintiffs' claims and defenses are typical of the Settlement Class.*

Under Rule 23(a)(3), the typicality requirement is satisfied where "the claims or defenses of the class representatives have the same essential characteristics as those of the class as a whole." "A plaintiff's claim is typical of class claims if it challenges the same conduct that would be challenged by the class." *Pliego v. Los Arcos Mexican Rests., Inc.*, 313 F.R.D. 117, 126 (D. Colo. 2016), quoting *Bass v. PJCOMN Acquisition Corp.*, No. 09-CV-01614-REB-MEH, 2011 WL

2149602, at *2 (D. Colo. June 1, 2011). “[D]iffering fact situations of class members do not defeat typicality under Rule 23(a)(3) so long as the claims of the class representative and class members are based on the same legal or remedial theory.” *Id.*, quoting *Adamson v. Bowen*, 855 F.2d 668, 676 (10th Cir.1988).

Here, Plaintiffs’ and Class Members’ claims all stem from the same event—the laptop stolen from Air Methods containing their PII—and the data security protocols that Air Methods had (or did not have) in place to protect Plaintiffs’ and Class Members’ data. Thus, Plaintiffs’ claims are typical of the Class Members’ and the typicality requirement is satisfied.

4. *Plaintiffs and their counsel will provide fair and adequate representation for the Settlement Class.*

Representative plaintiffs must be able to provide fair and adequate representation for the class. “The adequate representation requirement of Rule 23(a)(4) concerns both the competence of the class representative’s counsel and the representative’s willingness and ability to control the litigation and to protect the interests of the class as a whole.” *Pliego*, 313 F.R.D. at 126 (citing *Maez v. Springs Auto. Grp., LLC*, 268 F.R.D. 391, 396 (D. Colo. 2010)). To satisfy the adequacy of representation requirement, plaintiffs must establish that: (1) there is no antagonism or conflict of interest between the class representatives and other members of the class; and (2) counsel and the class representatives are competent, willing, and able to protect the interests of absent class members. *Feder v. Elec. Data. Sys. Corp.*, 429 F.3d 125, 130 (5th Cir. 2005).

Here, Plaintiffs’ interests are aligned with those of the Settlement Class in that they seek relief for injuries arising out of the same Security Incident. Plaintiffs’ and Class Members’ data was all allegedly compromised by Defendant in the same manner. Under the terms of the Settlement Agreement, Plaintiffs and Class Members will all be eligible for the same \$2500 documented out-of-pocket loss reimbursements, the same \$75 payment, reduced or increased pro

rata based on the claims rate and availability of funds, and the same identity theft protection and credit monitoring service. Also, Plaintiffs' anticipated service awards are no more than what any Settlement Class Member can claim.

Further, counsel for Plaintiffs have decades of combined experience as vigorous class action litigators and are well suited to advocate on behalf of the class. *See* Lietz Decl, ¶¶ 2-22, Moreover, they have put their collective experience to use in negotiating an early-stage settlement that guarantees immediate relief to class members. Thus, the requirements of Rule 23(a) are satisfied.

5. *Certification is also appropriate because common issues predominate over individualized ones, and class treatment is superior.*

Rule 23(b)(3) provides that class certification is proper 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 failure and efficiently adjudicating the controversy.” This inquiry is two-fold.

First, “[i]n order to ‘predominate,’ the Court must find that questions of law or fact common to class members predominate over any questions affecting only individual members. *Pliego*, 313 F.R.D. at 126 (citing Fed. R. Civ. P. 23(b)(3)). In this case, key predominating questions are whether Air Methods had a duty to exercise reasonable care in safeguarding, securing, and protecting the personal information of Plaintiffs and the Settlement Class, and whether Air Methods breached that duty. The common questions that arise from Air Methods' conduct predominate over any individualized issues. Other courts have recognized that the types of common issues arising from data breaches predominate over any individualized issues. *See, e.g., In re Heartland*, 851 F. Supp. 2d at 1059 (finding predominance satisfied in data breach case

despite variations in state laws at issue, concluding such variations went only to trial management, which was inapplicable for settlement class).¹

Second, the resolution of over 24,000 claims in one action is far superior to litigation via individual lawsuits. Class certification—and class resolution—guarantee an increase in judicial efficiency and conservation of resources over the alternative of individually litigating tens of thousands of individual data breach cases arising out of the *same* Security Incident. According to the Tenth Circuit, “class treatment is superior [when] it will achieve economies of time, effort, and expense, and promote uniformity of decision as to persons similarly situated, without sacrificing procedural fairness or bringing about other undesirable results.” *CGC Holding Co., LLC v. Hutchens*, 773 F.3d 1076, 1096 (10th Cir. 2014). The common questions of fact and law that arise from Defendants’ conduct predominate over any individualized issues, a class action is the superior vehicle by which to resolve these issues, and the requirements of Rule 23(b)(3) are met. Accordingly, the class should be certified for settlement purposes.

B. The Settlement Terms are Fair, Adequate, and Reasonable.

On preliminary approval, and prior to approving notice to be sent to the proposed Class, the Court must determine that it will “likely” be able to grant final approval of the Settlement under

¹ See also *In re Anthem, Inc. Data Breach Litig.*, 327 F.R.D. 299, 312–15 (N.D. Cal. Aug. 15, 2018) (finding predominance was satisfied because “Plaintiffs’ case for liability depend[ed], first and foremost, on whether [the defendant] used reasonable data security to protect Plaintiffs’ personal information,” such that “the claims rise or fall on whether [the defendant] properly secured the stolen personal information,” and that these issues predominated over potential individual issues); *Hapka v. CareCentrix, Inc.*, 2018 WL 1871449, at *2 (D. Kan. Feb. 15, 2018) (finding predominance was satisfied in a data breach case, stating “[t]he many common questions of fact and law that arise from the E-mail Security Incident and [Defendant’s] alleged conduct predominate over any individualized issues”); *In re The Home Depot, Inc., Customer Data Sec. Breach Litig.*, 2016 WL 6902351, at *2 (N.D. Ga. Aug. 23, 2016) (finding common predominating questions included whether Home Depot failed to reasonably protect class members’ personal and financial information, whether it had a legal duty to do so, and whether it failed to timely notify class members of the data breach).

Rule 23(e)(2). Under Rule 23(e)(2), in order to give a settlement final approval, the court must consider whether the proposed settlement is “fair, reasonable, and adequate after considering whether: (A) the class representatives and class counsel have adequately represented the class; (B) the proposal was negotiated at arm’s length; (C) the relief provided for the class is adequate . . . ; and (D) the proposal treats class members equitably relative to each other.” Fed. R. Civ. P. 23(e)(2)(A)-(D). In determining whether the relief provided is adequate, Courts must consider: “(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 attorney’s fees, including timing of payment; and (iv) any agreement required to be identified under Rule 23(e)(3).” *Id.* 23(e)(2)(C)(i)-(iv).

In the Tenth Circuit, approval of a class action settlement is committed to the sound discretion of the Court. *Jones v. Nuclear Pharmacy, Inc.*, 741 F.2d 322, 324 (10th Cir. 1984). Specifically, the factors that must be addressed under *Jones* to evaluate whether a class action settlement is fair and reasonable under Rule 23 includes: “(1) whether the proposed settlement was fairly and honestly negotiated; (2) whether serious questions of law and fact exist, placing the ultimate outcome of the litigation in doubt; (3) whether the value of an immediate recovery outweighs the mere possibility of future relief after protracted and expensive litigation; and, (4) the judgment of the parties and their counsel that the settlement is fair and reasonable. *Id.*”

Here, because the Settlement Agreement is fair, reasonable, and adequate under both the Rule 23 criteria and the Tenth Circuit *Jones* factors, this court should grant preliminary approval and allow notice to issue to the class.

I. Whether the settlement was fairly and honestly negotiated.

The negotiations in this matter occurred at arm's length. Lietz Dec. at ¶ 29. Settlements negotiated by experienced counsel that result from arm's length negotiations are presumed to be fair, adequate, and reasonable. *Lucas*, 234 F.R.D. at 693. This deference reflects the understanding that vigorous negotiations between seasoned counsel protect against collusion and advance the fairness consideration of Rule 23(e). In this case, the Parties engaged in protracted, adversarial, arms-length negotiations. While these negotiations were always professional and collegial, there is no doubt that they were adversarial, as counsel for the respective Parties are frequent adversaries in data privacy cases across the country. Lietz Decl. ¶ 29.

2. Whether serious questions of law and fact exist, placing the ultimate outcome of the litigation in doubt.

The value achieved through the Settlement Agreement is guaranteed, where chances of prevailing on the merits are uncertain – especially where serious questions of law and fact exist, which is common in data breach litigation. Data breach litigation is evolving; there is no guarantee of the ultimate result. See *Gordon v. Chipotle Mexican Grill, Inc.*, No. 17-cv-01415-CMA-SKC, 2019 WL 6972701, at *1 (D. Colo. Dec. 16, 2019) (“Data breach cases ... are particularly risky, expensive, and complex.”).

While Plaintiffs strongly believe in the merits of their case, they also understand that Air Methods asserts a number of potentially case-dispositive defenses. In fact, should litigation continue, Plaintiffs would likely have to immediately survive a motion to dismiss in order to proceed with litigation. That motion to dismiss would likely include arguments that this is a stolen laptop case, and some courts have been unwilling to let such cases proceed beyond the pleadings stage. See, e.g. *Beck v. McDonald*, 848 F.3d 262, 267 (4th Cir. 2017) (plaintiffs' claims dismissed for lack of standing in stolen laptop case); *In re Sci. Applications Int'l Corp. (SAIC) Backup Tape Data Theft Litig.*, 45 F. Supp. 3d 14, 20 (D.D.C. 2014) (plaintiffs' claims dismissed in stolen data

tapes case for lack of Article III standing). Due at least in part to their cutting-edge nature and the rapidly evolving law, data breach cases like this one generally face substantial hurdles—even just to make it past the pleading stage. *See Hammond v. The Bank of N.Y. Mellon Corp.*, 2010 WL 2643307, at *1 (S.D.N.Y. June 25, 2010) (collecting data breach cases dismissed at the Rule 12(b)(6) or Rule 56 stage).

Class certification is another hurdle that would have to be met—and one that been denied in other data breach cases. *See, e.g., In re Hannaford Bros. Co. Customer Data Sec. Breach Litig.*, 293 F.R.D. 21 (D. Me. 2013). Plaintiffs dispute the defenses Air Methods asserts—but it is obvious that their success at trial is far from certain. Through the Settlement, Plaintiffs and Class Members gain significant benefits without having to face further risk of not receiving any relief at all.

3. *Whether the value of an immediate recovery outweighs the mere possibility of future relief after protracted and expensive litigation.*

The Settlement guarantees Class Members real relief and value for harms as well as protections from potential future fall-out from the Security Incident.

The settlement negotiated on behalf of the Class provides for a \$240,000 Settlement Fund where Class Members can easily submit a claim for substantial relief from the Settlement Fund, as outlined above. Even if every single class member were to file a claim, the non-reversionary Settlement Fund provides for a per class member recovery of approximately \$9.77 per class member. This compares favorably to terms approved by courts in other, similar data breach cases. *See, e.g., Dickey's Barbeque Rests., Inc.*, No. 20-cv-3424, Dkt. 62 (N.D. Tex.) (data breach class action involving more than 3 million people that settled for only \$2.3 million (or \$0.76 per person)); *In re Herff Jones Data Breach Litig.*, No. 21-cv-1329 (S.D. Ind.) (data breach class action

involving more than 1 million people that settled for only \$4.35 million (or approximately \$4.35 per person).

4. *Whether the judgment of the parties and their counsel that the settlement is fair and reasonable.*

The judgment of the parties and their counsel also supports a finding that the settlement is fair and reasonable. In negotiating the amounts to be paid under the Settlement, Plaintiffs' Counsel relied upon published reports documenting data breach and identity theft costs, actual costs incurred by Class Members (as relayed in conversations with Plaintiffs' Counsel), their own experience in other data breach litigation, and reported settlements in other data breach class actions. The monetary benefits offered to Class Members are more than fair and reasonable in light of reported average out-of-pocket expenses due to a data breach.

The benefits available here compare favorably to what Class Members could recover if successful at trial and provide meaningful benefits to the Class in light of the uncertainties presented by continued litigation and trial. In the experience of Plaintiffs' counsel who have litigated numerous data breach cases, have spoken to victims of other data breaches, and have reviewed claims data from dozens of other settlements, the relief provided by this Settlement should be considered an outstanding result and benefit to the Class. Additionally, the monetary benefits provided by the Settlement compare favorably with those of other settlements in data breach class actions that have been approved by other courts, including those cited above.

The proposed Settlement is a non-reversionary common fund that does not provide any preferential treatment of the named Plaintiffs or any segments of the Class. *See* Fed. R. Civ. P. 23(e)(2)(D). With this proposed Settlement, Class Members are able to recover damages for any injuries caused by the Security Incident. In satisfaction of Rule 23(e)(2)(D), the reimbursement for

out-of-pocket expenses allow Class Members to obtain relief based upon the specific types of damages they incurred and treats every claimant in those categories equally relative to each other.

Plaintiffs also intend to apply for service awards for the Class Representatives. These awards “are fairly typical in class action cases” and are intended to compensate class representatives for participation in the litigation. *See Rodriguez v. W. Publ’g Corp.*, 563 F.3d 948, 958-59 (9th Cir. 2009). A service award to the Class Representatives is appropriate here given the efforts and participation of Plaintiffs in the litigation, and does not constitute preferential treatment. The Class Representatives were not promised a service award, nor did they condition their representation on the expectation of a service award. Lietz Dec. at ¶ 41.

C. The Proposed Settlement Administrator Will Provide Adequate Notice.

Rule 23(e)(1) requires the Court to “direct reasonable notice to all class members who would be bound by” a proposed Settlement. For classes, like this one, certified under Rule 23(b)(3), parties must provide “the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort.” Fed. R. Civ. P. 23(c)(2)(B). The best practicable notice is that which “is reasonably calculated, under all of the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950).

The Notice provided for by the Settlement Agreement is designed to meet all the criteria set forth by Rule 23 and the Manual for Complex Litigation. *See* S.A. Exs. B and D (Long Form and Postcard Notice). Here, the Settlement provides for direct and individual notice, to be sent via first class mail to each Settlement Class Member. S.A. ¶ 58.

Not only has Air Methods agreed to provide Class Members with individualized notice via direct mail through the proposed claims administrator, but all versions of the settlement notice will

be available to Class Members on the Settlement Website, along with all relevant filings. *Id.* ¶ 32. The Settlement Administrator will also make a post office box and toll-free telephone number available by which Class Members can seek answers to questions about the Settlement.

The notices themselves are clear and straightforward. They define the Class; clearly describe the options available to class members and the deadlines for taking action; describe the essential terms of the settlement; disclose the requested service award for the class representatives as well as the amount that proposed Class Counsel intends to seek in fees and costs; explain procedures for making claims, objections, or requesting exclusion; provide information that will enable Class Members to calculate their individual recovery; describe the date, time, and place of the Final Fairness Hearing; and prominently display the address and phone number of class counsel. *See* S.A. at Exs. B and D.

The direct mail Notice proposed here is the gold standard, and is consistent with Notice programs approved by other courts. *See Stott v. Cap. Fin. Servs.*, 277 F.R.D. 316, 342, (N.D. Tex. 2011) (approving notice sent to all class members by first class mail); *Billitri v. Securities Am., Inc.*, Nos. 3:09-cv-01568-F, 3:10-cv-01833-F, 2011 WL 3586217, at *9 (N.D. Tex. Aug. 4, 2011) (same). The Notice is designed to be the best practicable under the circumstances, apprises Class Members of the pendency of the action, and gives them an opportunity to object or exclude themselves from the settlement. Accordingly, the Notice process should be approved by this Court.

Also, the Settlement Administrator will prepare and send notice in compliance with the requirements of the Class Action Fairness Act, 28 U.S.C. Sec. 1711, et seq. (“CAFA”), to be served upon the appropriate State official in each State where Class Members reside and the appropriate federal official. Costs for preparation and issuance of the CAFA Notice will be paid from the Settlement Fund.

VI. CONCLUSION

Plaintiffs have negotiated a fair, adequate, and reasonable settlement that guarantees Class Members significant relief in the form of cash payments, reimbursement for documented out-of-pocket losses, and identity theft protection and credit monitoring,. The Settlement is well within the range of reasonable results, and an initial assessment of factors required to be considered on final approval favors approval. For these and the above reasons, Plaintiffs respectfully request this Court certify the class for settlement purposes and grant their Unopposed Motion for Preliminary Approval of Class Action Settlement.

Dated: July 15, 2024

Respectfully submitted,

/s/ Gary M. Klinger

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of July, 2024, I caused the foregoing document to be filed with the Clerk of this Court via the Court's CM/ECF system, which will cause a true and correct copy to be served electronically on all counsel of record.

/s/ Gary M. Klinger

Gary M. Klinger

EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No.1:24-cv-00642-NRN

RACHEL WILLIAMS and
GENOVEVA MILTON, individually
and on behalf of all others similarly situated,

Plaintiffs,

v.

AIR METHODS, LLC,

Defendant.

CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

Plaintiffs Rachel Williams and Genoveva Milton (“Plaintiffs” or “Class Representatives”), on behalf of themselves and all others similarly situated, and Defendant Air Methods, LLC (“Defendant” or “Air Methods”) (collectively, the “Parties”), hereby enter into this Class Action Settlement Agreement and Release (“Settlement Agreement” or “Agreement”), subject to Court approval. As detailed below, this Settlement Agreement releases and forever discharges and bars all claims asserted (or claims that could have been asserted) in the class action lawsuit captioned, *Williams et al. v. Air Methods, LLC*, Civil Action No.1:24-cv-00642-NRN, currently pending in the United States District Court for the District of Colorado and any related actions.

I. RECITALS

WHEREAS, on July 11, 2024, Plaintiffs, on behalf of themselves and purportedly a nationwide Class (as defined below), filed a Second Amended Putative Class Action Complaint (the “Operative Complaint”) against Air Methods in the United States District Court for the

District of Colorado, asserting causes of action for (1) Negligence, (2) Negligence *Per Se*, (3) Breach of Implied Contract, and (4) Unjust Enrichment;

WHEREAS, the Parties engaged in adversarial, arm's length negotiations between competent counsel for all Parties;

WHEREAS, in Operative Complaint, the Class Representatives seek to certify the following class, for purposes of settlement only:

All individuals who received direct notice that their Personal Information may have been implicated in the November 2023 Security Incident.

WHEREAS, Defendant denies each and all of the claims and contentions alleged against it in the Operative Complaint. Defendant denies all charges of wrongdoing or liability as alleged, or which could be alleged. Despite this, Defendant has concluded that further litigation would be protracted and expensive, and that it is desirable that this matter be fully and finally settled in the manner and upon the terms and conditions set forth in this Settlement Agreement. The Parties recognized that the outcome of litigation is uncertain, and the Parties agree that it is desirable and beneficial that the Action be settled in the manner and upon the terms and conditions set forth in this Settlement Agreement;

WHEREAS, the Parties have explored and discussed at length the factual and legal issues in the Action and engaged in good faith, arm's length negotiations concerning the issues raised by Plaintiffs in the Action, and have agreed to a global, final settlement of the Action that renders the need for further litigation unnecessary;

WHEREAS, the Parties desire to compromise and settle all issues, claims, and/or facts asserted in the Action, or that could have been asserted based upon the facts alleged in the Action, by or on behalf of Class Representatives and the Class;

WHEREAS, Class Representatives, by and through Class Counsel, have (a) made a thorough investigation of the facts and circumstances surrounding the allegations asserted in the Action, (b) engaged in investigation of the claims asserted in the Action, including informal discovery obtained by Class Representatives in connection with the Action and prior to execution of this Agreement, and (c) evaluated and considered the law applicable to the claims asserted in the Action, including the defenses that Air Methods likely would assert;

WHEREAS, Plaintiffs' counsel are experienced in this type of class litigation, recognize the costs and risks of prosecution of this Action, and believe that it is in Class Representatives' interest, and the interest of all Settlement Class Members, to resolve this Action, and any and all claims against Air Methods arising from the conduct alleged in the Action, and in this Settlement Agreement;

WHEREAS, significant arm's-length settlement negotiations have taken place between the Parties and, as a result, this Settlement Agreement has been reached without collusion, subject to the Court-approval process set forth herein;

WHEREAS, the undersigned Parties believe this Settlement Agreement offers significant benefits to Settlement Class Members and is fair, reasonable, adequate and in the best interest of Settlement Class Members; and

WHEREAS, this Settlement Agreement is made and entered into by and between Class Representatives, individually and on behalf of the Class, and Air Methods;

NOW, THEREFORE, it is hereby stipulated and agreed, by and between the Parties, as follows:

II. DEFINITIONS

As used in this Settlement Agreement, the following terms shall have the meanings set forth below. Where appropriate, terms used in the singular shall be deemed to include the plural and vice versa.

1. “Action” means the case captioned *Williams et al. v. Air Methods, LLC*, Civil Action No.1:24-cv-00642-NRN, currently pending in the United States District Court for the District of Colorado and any related actions.

2. “CAFA Notice” means a notice of the proposed Settlement in compliance with the requirements of the Class Action Fairness Act, 28 U.S.C. Sec. 1711, *et seq.* (“CAFA”), to be served upon the appropriate State official in each State where Class Member resides and the appropriate federal official. Costs for preparation and issuance of the CAFA Notice will be paid from the Settlement Fund.

3. “Claim Deadline” means the postmark and/or online submission deadline for claims, which shall be ninety (90) days after the Class Notice Date. The Claims Deadline shall be clearly set forth in the Preliminary Approval Order, Postcard Notice, and the Claim Form.

4. “Claim Form” means the form that will be used by Settlement Class Members to submit a claim under this Agreement, substantially in the form as shown in **Exhibit A** to this Settlement.

5. “Class Counsel” means David K. Lietz and Gary M. Klinger of Milberg Coleman Bryson Phillips Grossman PLLC.

6. “Class Notice Date” means thirty (30) days after the Court’s entry of the Preliminary Approval Order.

7. “Class Representatives” or “Plaintiffs” means Rachel Williams and Genoveva Milton.

8. “Court” means the United States District Court for the District of Colorado and the Honorable Reid M. Neureiter or such other judge to whom the Action may hereafter be assigned.

9. “Defendant” means Air Methods, LLC.

10. “Defendant’s Counsel” or “Air Method’s Counsel” means Casie D. Collignon and Keeley O. Cronin of Baker & Hostetler LLP.

11. “Effective Date” means the date upon which the Settlement in the Action shall become effective and final, and occurs when the Final Approval Order, as defined in Paragraph 12 below, has been entered and all times to appeal therefrom have expired with (1) no appeal or other review proceeding having been commenced; or (2) an appeal or other review proceeding having been commenced, and such appeal or other review having been concluded such that it is no longer subject to review by any court, whether by appeal, petitions for rehearing or re-argument, petitions for rehearing *en banc*, petitions for writ of certiorari, or otherwise, and such appeal or other review has been resolved in a manner that affirms the Final Judgment in all material respects. The Effective Date shall not be altered in the event the Court declines to approve, in whole or in part, Plaintiffs’ Counsel’s Fees and Expenses or the Service Awards. Further, the Effective Date shall not be altered in the event that an appeal is filed with the sole issue(s) on appeal being Plaintiffs’ Counsel’s Fees and Expenses and/or the Service Awards.

12. “Final Approval Hearing” means the hearing at which the Court will consider and finally decide whether to enter the Final Approval Order and at which the Court will consider Class Counsel’s request for payment of any Service Awards and Plaintiffs’ Counsel’s Fees and Expenses.

13. “Final Approval Order” means the Final Approval Order and separate Judgment of the Court approving this Settlement Agreement and make such other final rulings as are contemplated by this Settlement Agreement.

14. “Long Form Notice” means the Court-approved long-form notice of settlement to be posted on the Settlement Website, substantially in the form as shown in **Exhibit B** to this Settlement, informing the Class of, among other things (i) the preliminary approval of the Settlement, (ii) the scheduling of the Final Approval Hearing, (iii) the Settlement benefits available to Settlement Class Members, and (iv) their opportunity to participate in, object to or exclude themselves from the Settlement.

15. “Objection Date” means the date by which members of the Settlement Class may file with the Court through the Court’s electronic case filing (“ECF”) system and mail to Class Counsel and Defendant’s Counsel their objection to the settlement. The postmark date shall constitute evidence of the date of mailing for these purposes. The Objection Date shall be sixty (60) days from the Class Notice Date.

16. “Parties” means Plaintiffs and Defendant.

17. “Plaintiffs’ Counsel’s Fees and Expenses” means an amount not to exceed one third of the gross settlement amount, or eighty thousand dollars (\$80,000), for attorneys’ fees and Plaintiffs’ Counsel’s reasonable litigation costs, to be paid from the Settlement Fund, subject to approval of the Court.

18. “Postcard Notice” means the notice of the proposed class action settlement, substantially in the form as shown in **Exhibit C** to this Settlement. The Postcard Notice will direct recipients to the Settlement Website where individuals may obtain additional details of the

proposed Settlement and the Claim Form where Settlement Class Members may make a claim for monetary benefits.

19. “Preliminary Approval Order” means the order of the Court preliminarily approving this Settlement Agreement, substantially in the form as shown in **Exhibit D** to this Settlement.

20. “Personal Information” means name, date of service, the Air Methods reference number, contact information, insurance information, and/or diagnosis or treatment information.

21. “Released Claims” means the claims released by this Settlement Agreement, as set forth in Section IX.

22. “Released Parties” means Defendant’s past, present, and future parents, subsidiaries, divisions, customers, partnerships, joint ventures, affiliates, and related or affiliated entities, and each of their respective predecessors, successors, directors, officers, principals, agents, attorneys, assigns, employees, servants, members, providers, partners, principals, officers, directors, shareholders, owners, heirs, executors, administrators, personal representatives, insurers, and reinsurers, and trustees of such entities, and includes, without limitation, any Person related to any such entity who is, was or could have been named as a defendant in any of the actions in the Action, other than any Person who is found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity occurrence of the Security Incident or who pleads *nolo contendere* to any such charge.

23. “Request for Exclusion” means a timely and valid request by any Settlement Class Member for exclusion from the Settlement.

24. “Request for Exclusion Deadline” or “Opt-Out Deadline” means the date by which members of the Settlement Class must mail to the Settlement Administrator their request to be

excluded from the Settlement Class for that request to be effective. The postmark date shall constitute evidence of the date of mailing for these purposes. The Request for Exclusion Deadline shall be sixty (60) days from the Class Notice Date.

25. “Security Incident” means the November 2023 incident in which a criminal third-party stole a laptop that may have contained certain patient information.

26. “Service Awards” means the amount to be paid to the Class Representatives to compensate them for the time and effort spent pursuing the Action on behalf of the Settlement Class, subject to approval of the Court, and which shall not exceed an amount of two thousand five hundred dollars (\$2,500) to each Class Representative. The Service Awards shall be paid from the Settlement Fund.

27. “Settlement” and “Settlement Agreement” mean the agreement by the Parties to resolve this Action, the terms of which have been memorialized herein.

28. “Settlement Administration” means the processing of payments to Settlement Class Members by the Settlement Administrator.

29. “Settlement Administrator” means, subject to Court approval, Simpluris, a company experienced in administering class action claims generally and specifically those of the type provided for in this Action.

30. “Settlement Class” means the approximately 24,568 individuals who received direct notification that their Personal Information may have been implicated in the Security Incident. Excluded from the Settlement Class are the following individuals and/or entities: (1) Air Methods, LLC and its officers and directors; (2) all Persons who submit a timely and valid Request for Exclusion from the Settlement Class; (3) the Court; and (4) any person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the

criminal activity occurrence of the Security Incident, or who pleads *nolo contendere* to any such charge.

31. “Settlement Class Member” means a Person who falls within the definition of the Settlement Class.

32. “Settlement Fund” means a non-reversionary common fund to be funded by Defendant in the amount of \$240,000, which shall be deposited into an Escrow Account to be set up by the Settlement Administrator.

33. “Settlement Website” means the website to be established by the Settlement Administrator that will inform members of the Settlement Class of the terms of this Settlement Agreement, their rights, dates and deadlines and related information, and shall include in .pdf format and available for download the following: (1) the Class Notice, (2) the Claim Form, (3) the Preliminary Approval Order, (4) this Settlement Agreement, (5) the Operative Complaint, and (6) any other materials agreed upon by the Parties and/or required by the Court. The Settlement Website shall provide the members of the Settlement Class with the ability to complete and submit the Claim Form electronically. The Settlement Website shall be deactivated one-hundred eighty (180) days after the Effective Date.

34. “Unknown Claims” means any of the Released Claims that any Settlement Class Member, including Plaintiffs, does not know or suspect to exist in his/her favor at the time of the release of the Released Parties that, if known by him or her, might have affected his or her settlement with, and release of, the Released Parties, or might have affected his or her decision not to object to and/or to participate in this Settlement Agreement. With respect to any and all Released Claims, the Parties stipulate and agree that upon the Effective Date, Plaintiffs intend to and expressly shall have, and each of the other Settlement Class Members intend to and shall be

deemed to have, and by operation of the Judgment shall have, waived the provisions, rights, and benefits conferred to Settlement Class Members, including Plaintiffs, may hereafter discover facts in addition to, or different from, those that they, and any of them, now know or believe to be true with respect to the subject matter of the Released Claims, but Plaintiffs expressly shall have, and each other Settlement Class Member shall be deemed to have, and by operation of the Judgment shall have, upon the Effective Date, fully, finally and forever settled and released any and all Released Claims, including Unknown Claims. The Parties acknowledge, and Settlement Class Members shall be deemed by operation of the Judgment to have acknowledged, that the foregoing waiver is a material element of the Settlement Agreement of which this release is a part.

1.1 “Valid Claims” means claims in an amount approved by the Settlement Administrator or found to be valid through the claims processing.

III. REQUIRED EVENTS

35. Class Counsel and Defendant’s Counsel shall take all reasonable and necessary steps to obtain entry of the Preliminary Approval Order and obtain entry of the Final Approval Order. Class Counsel shall prepare and file all documents in connection with the Motion for Preliminary Approval and the Motion for Final Approval.

36. In the event that the Court fails to issue the Preliminary Approval Order, or fails to issue the Final Approval Order, the Parties agree to use their best efforts, consistent with this Settlement Agreement, to cure any defect(s) identified by the Court.

37. The Parties acknowledge that prompt approval, consummation, and implementation of the Settlement as set forth in this Agreement is essential. The Parties shall cooperate with each other in good faith to carry out the purposes of and effectuate this Settlement Agreement, shall promptly perform their respective obligations hereunder, and shall promptly take

any and all actions and execute and deliver any and all additional documents and all other materials and/or information reasonably necessary or appropriate to carry out the terms of this Settlement Agreement and the transactions contemplated here.

IV. SETTLEMENT TERMS

38. Settlement Fund: Air Methods shall make a non-reversionary payment of \$240,000, and deposit that payment into the Settlement Fund via an Escrow Account to be opened by the Settlement Administrator.

39. No later than thirty (30) days after entry of the Preliminary Approval Order, and upon the receipt of sufficient payment information from the Settlement Administrator, Defendant will advance to the Settlement Administrator the cost of preparing and transmitting the Postcard Notice to Settlement Class Members. Defendant shall deposit the balance of the Settlement Fund within thirty (30) days of the Court's entry of the Final Approval Order. The Settlement Administrator shall establish a Qualified Settlement Fund (QSF), as defined by 26 C.F.R. 1.468B-1, for the deposit of the payment of the balance of the Settlement Fund. Under no circumstances will Defendant have any further monetary payment obligation other than the payment of the Settlement Fund.

40. Payments from Settlement Fund: The costs of Settlement Administration, including notice and distributions to members of the Settlement Class, the costs of administering the Settlement Fund, and reasonable fees of the Settlement Administrator, Plaintiffs' Counsel's Fees and Expenses, and Service Awards shall be paid exclusively from the Settlement Fund. There will be no reversion of the Settlement Fund to Air Methods.

41. Service Awards to the Class Representatives: Class Counsel will move the Court for Service Award payments from the Settlement Fund for the Class Representatives in an amount

not to exceed two thousand five hundred dollars (\$2,500) for each Class Representative, in recognition of the risks taken by them as the Class Representatives in commencing the Action, both financial and otherwise. Defendant agrees not to oppose Class Counsel's request for Service Award payments from the Settlement Fund in these amounts. If awarded by the Court, the Settlement Administrator shall pay from the Settlement Fund the Service Awards to the Class Representatives in the manner directed by Class Counsel within ten (10) days after the Effective Date.

42. Payment of Plaintiffs' Counsel's Fees and Expenses: No later than fourteen (14) days prior to the Objection Date and Request for Exclusion Deadline, Class Counsel will move the Court for an award of Plaintiffs' Counsel's attorneys' fees to be paid from the Settlement Fund in an amount not to exceed one third of the total Settlement Fund, (\$80,000), plus reasonable litigation costs and expenses. Class Counsel, in their sole discretion, shall allocate and distribute any amounts of attorneys' fees, costs and expenses awarded by the Court among Plaintiffs' counsel. If awarded by the Court, the Settlement Administrator shall pay from the Settlement Fund any Plaintiffs' Counsel's Fees and Expenses in the amounts awarded by the Court within ten (10) days after the Effective Date. Within ten (10) days of the Effective Date, Class Counsel will provide the Settlement Administrator with payment instructions. .

43. Payment of Valid Claims to Class Members: Each member of the Settlement Class who submits a timely and valid Claim Form shall be paid from the Settlement Fund in the manner outlined in the Settlement Administration section below. As set forth below, the Settlement Fund will be used to pay for: (1) reimbursement for Documented Out-of-Pocket Losses, (2) pro rata cash payments, and (3) credit monitoring. Valid claims for Documented Out-of-Pocket Losses will be paid first. Valid claims for Pro Rata Cash Payments be paid last and will be increased or decreased

pro rata to consume the remaining amount of the Settlement Fund after payment for notice and Settlement Administration costs, Service Awards as approved by the Court, and Plaintiffs' Counsel's Fees and Expenses as awarded by the Court.

44. CAFA Notice: Within ten (10) days of the filing of the Motion for Preliminary Approval, Air Methods shall provide notice to state Attorneys General or others as required by 28 U.S.C. § 1715(b).

V. CLAIMS PROCESS

45. Members of the Settlement Class must submit a Claim Form to receive a distribution payment from the Settlement Fund. Each Settlement Class Member is limited to the submission of one Claim Form and in no event shall a Settlement Class Member receive more than one distribution of Settlement benefits. The Settlement Administrator will only issue Settlement distributions to Settlement Class Members who submit timely and valid Claim Forms. To be entitled to receive a distribution under this Agreement, Settlement Class Members must properly complete a Claim Form and timely deliver it to the Settlement Administrator within ninety (90) days from the Class Notice Date. Any Class Member who fails to submit a valid and timely Claim Form will not receive any payment under this Agreement.

46. All Settlement Class Members may submit requests for Settlement benefits as set forth below:

A. Reimbursement for Documented Out-of-Pocket Losses

47. All Settlement Class Members may submit a claim for Documented Out-of-Pocket Losses up to two thousand and five hundred dollars (\$2,500) per individual.

48. "Documented Out-of-Pocket Losses" means the unreimbursed costs or expenditures incurred by a Settlement Class Member between November 9, 2023 and the Claims

Deadline, as result of the Security Incident. Documented Out-of-Pocket Losses may include, but are not limited to, unreimbursed costs, expenses, or charges incurred addressing or remedying identity theft, fraud, or misuse of personal information and/or other issues reasonably traceable to the Security Incident.

49. Settlement Class Members who elect to submit a claim for reimbursement of Documented Out-of-Pocket Losses must provide to the Settlement Administrator the information required to evaluate the claim, including: (1) the Settlement Class Member's name and current address, (2) a brief description of the claimed out-of-pocket expenses, and (3) documentation supporting their claimed losses. Documentation supporting the claimed losses can include receipts or other documentation supporting the costs incurred. "Self-prepared" documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but can be considered to add clarity to or support other submitted documentation.

50. Settlement Class Members seeking reimbursement for Documented Out-of-Pocket Losses must complete and submit either a written or online claim form to the Settlement Administrator, postmarked or electronically submitted on or before the Claims Deadline. The claim form must be verified by the Settlement Class Member with an attestation that the claimant believes that the losses or expenses claimed were incurred as a result of the Security Incident.

B. Pro Rata Cash Payments

51. Settlement Class Members may also claim a pro rata cash payment in an amount estimated to be approximately seventy-five dollars (\$75) by submitting a timely and valid claim form. The amount of the cash payment shall be increased or decreased on a pro rata basis, based on the funds remaining in the Settlement Fund following the payment of Plaintiffs' Counsel's Fees and Expenses, any Service Awards, the Costs of Settlement Administration, CAFA Notice, claims

for Documented Out-of-Pocket Losses, and the cost of identity theft protection and credit monitoring.

C. Identity Theft Protection and Credit Monitoring

52. Settlement Class Members may submit a claim for two (2) years of Identity Defense Total Credit Monitoring, a state-of-the-art identity theft and credit monitoring product provided by CyEx.

53. The Settlement Administrator shall provide Class Counsel and Defendant's Counsel with weekly reports informing them of all Claim Forms received by the Settlement Administrator during each week following the Class Notice Date. No later than sixteen (16) days prior to the Final Approval Hearing, the Settlement Administrator must provide counsel with a Declaration reporting on the mailing of the Class Notice and identifying the number of Claim Forms, Requests for Exclusion and objections received, which shall be filed with the motion for final approval.

54. Disbursement of Settlement Payments and Checks: Within thirty (30) days after the Effective Date, the Settlement Administrator will disburse payments for Valid Claims to each Settlement Class Member who submits a timely and valid Claim Form. Payments may be made by electronic payment or by paper check. In the event that the aggregated amount of payment of all Valid Claims exceeds the total amount of the Settlement Fund (\$240,000), the value of the Settlement payments to each Settlement Class Member who submitted a Valid Claim shall be reduced on a pro rata basis, such that the aggregate value of all payments for all Valid Claims does not exceed the Settlement Fund (after payment of all Settlement Administration costs, Service Awards, and Plaintiffs' Counsel's Fees and Expenses). All pro rata reduction determinations shall be made by the Settlement Administrator.

55. Failure to Cash Settlement Checks: Any Settlement check not cashed within one-hundred-twenty (120) days of issuance (based on the date of the check) will be deemed expired. Any member of the Settlement Class who does not cash their Settlement check within the aforementioned time period may petition the Settlement Administrator within thirty (30) days of the expiration of their uncashed check to reissue their Settlement check, and, good cause providing, the Settlement Administrator will issue a new check. Members of the Settlement Class are entitled to only one petition on this basis, and any Settlement check reissued for such reasonable circumstances will expire within thirty (30) days of issuance (based on the date of the check). Settlement Class Members who do not timely cash their Settlement checks and who fail to petition for a reissuance of the uncashed Settlement check will be considered as having waived any right to a cash payment under the Settlement Agreement. In no event will a Settlement Class Member be permitted to cash a check once the value of uncashed checks has been paid to a *cy pres* organization, as agreed to by the Parties and approved by the Court.

56. Payment of Uncashed Checks to a *Cy Pres* Organization: The total amount of uncashed Settlement checks will be paid to a charitable organization to be agreed upon by Defendant and Class Counsel and approved by the Court.

VI. SETTLEMENT ADMINISTRATION

57. Engagement of Settlement Administrator: Upon entry of the Preliminary Approval Order, the Parties shall engage Simpluris as the Settlement Administrator. Simpluris shall be paid reasonable Settlement Administration costs exclusively from the Settlement Fund.

58. Settlement Class Member Information: No later than ten (10) days after entry of the Preliminary Approval Order, Defendant shall provide the Settlement Administrator with the name and last known physical address of each Settlement Class Member that Defendant possesses.

For any Settlement Class Member whose information does not include a valid address, the Settlement Administrator shall use the available information to conduct a reverse look-up search to obtain a physical address to mail the Notice. The Settlement Class Member Information and its contents shall be used by the Settlement Administrator solely for the purpose of performing its obligations pursuant to this Settlement Agreement and shall not be used for any other purpose at any time. Except to administer the settlement as provided in this Settlement Agreement the Settlement Administrator shall not reproduce, copy, store, or distribute in any form, electronic or otherwise, the Settlement Class Member Information.

59. Duties of Settlement Administrator: In addition to other duties as set forth in this Agreement, the Settlement Administrator shall be responsible for the following:

- a) Preparing, printing, and disseminating the Postcard Notice to Settlement Class Members;
- b) Within thirty (30) days after the entry of the Preliminary Approval Order (the Class Notice Date), sending by First Class Mail the Postcard Notice to all Settlement Class Members. Before any mailing under this paragraph occurs, the Settlement Administrator shall run the postal addresses of Settlement Class Members through the United States Postal Service (“USPS”) National Change of Address database to update any change of address on file with the USPS. In the event that a Postcard Notice is returned to the Settlement Administrator by the USPS because the address of the recipient is no longer valid, and the envelope contains a forwarding address, the Settlement Administrator shall re-send the Postcard Notice to the forwarding address within ten (10) days of receiving the returned Postcard Notice. In the event that subsequent to the first mailing of a Postcard Notice, and at least fourteen (14) days prior to the Objection Date and Request for

Exclusion Deadline, a Postcard Notice is returned to the Settlement Administrator by the USPS because the address of the recipient is no longer valid, i.e., the envelope is marked “Return to Sender” and does not contain a new forwarding address, the Settlement Administrator shall perform a standard skip trace, in the manner that the Settlement Administrator customarily performs skip traces, in an effort to attempt to ascertain the current address of the particular Settlement Class Member in question and, if such an address is ascertained, the Settlement Administrator will re-send the Postcard Notice within seven (7) days of receiving such information. This shall be the final requirement for mailing;

c) Maintaining the Settlement Website and toll-free number with recorded answers for ninety (90) days following the Effective Date.

d) Keeping track of Requests for Exclusion, including maintaining the original mailing envelope in which each request was mailed;

e) Keeping track of Claim Forms, including maintaining the original mailing envelope in which each form was mailed;

f) Keeping track of objections, including maintaining the original mailing envelope in which each objection was mailed;

g) Keeping track of all other communications from Settlement Class Members, including maintaining the original mailing envelope in which any communication was mailed;

h) Maintaining adequate records of its activities, including the dates of each mailing of the Postcard Notices, returned mail and other communications, and attempted written or electronic communications with Settlement Class Members;

i) Promptly furnishing to counsel for the Parties (i) copies of any Requests for Exclusion, (ii) copies of any objections, and (iii) all other written or electronic communications received from Settlement Class Members;

j) Determining whether Requests for Exclusion comply with the terms of this Agreement and are timely and valid and effective to exclude the submitting Settlement Class Member from the Class;

k) Determining whether Claim Forms comply with the terms of this Agreement and are timely and valid;

l) Promptly preparing and distributing any rejection of a Request for Exclusion to the submitting Settlement Class Member. Rejections shall set forth the reasons for rejection, including the reason(s) the Request for Exclusion fails to comply with the terms of this Agreement;

m) Promptly preparing and distributing notices of deficiencies to the submitting Settlement Class Member that set forth the reasons their Claim Form is deficient, including the reason(s) the Claim Form fails to comply with the terms of this Agreement;

n) Delivering to the Parties' counsel in a reasonably timely manner, but in no event later than sixteen (16) days before the Final Approval Hearing, a written report concerning all Requests for Exclusion (valid and invalid), all Claim Forms (valid and deficient), and all objections (valid and invalid);

o) Establishing a Qualified Settlement Fund (QSF), as defined by 26 C.F.R. 1.468B-1, for the deposit of the Settlement Fund payment, ensuring that all taxes associated with the administration of the Settlement Fund are timely paid to the appropriate tax

authorities and all tax filings are timely filed, which taxes shall be paid from the Settlement Fund;

p) Determining the payment to each member of the Settlement Class who submits a Valid Claim in accordance with this Agreement;

q) No later than thirty (30) days after the Effective Date, distributing payments to each Settlement Class Member who submitted a Valid Claim sending an electronic payment or check by First Class Mail to each Settlement Class Member in the amount of his or her approved claim;

r) No later than ten (10) days after the Effective Date, distributing any Service Awards approved by the Court in the amount of the award approved by the Court as set forth above;

s) No later than ten (10) days after the Effective Date, preparing and distributing, in accordance with this Agreement and the Final Approval Order, Plaintiffs' Counsel's Fees and Expenses; and

t) Confirming in writing its completion of the administration of the Settlement.

u) Costs of Settlement Administration: All reasonable expenses incurred in administering this Settlement, including, without limitation, the cost of the Postcard Notice, Settlement Website, and toll-free telephone line, the cost of distributing and administering the Settlement benefits, and the Settlement Administrator's reasonable costs shall be paid to the Settlement Administrator from the Settlement Fund, subject to the approval of the Court.

VII. REQUESTS FOR EXCLUSION BY CLASS MEMBERS

60. Any Settlement Class Member may make a Request for Exclusion by mailing such request in writing to the Settlement Administrator at the address set forth in the Class Notice. Any Request for Exclusion must be postmarked no later than sixty (60) days after the Class Notice Date. The Request for Exclusion shall (i) state the Settlement Class Member's full name and current address and signature, and (ii) specifically state his or her desire to be excluded from the Settlement and from the Settlement Class. Failure to comply with these requirements and to timely submit the Request for Exclusion will result in the Settlement Class Member being bound by the terms of the Settlement.

61. Any Settlement Class Member who submits a timely Request for Exclusion may not make any objections to the Settlement and shall be deemed to have waived any rights or benefits under this Settlement Agreement.

62. The Settlement Administrator shall provide Class Counsel and Defendant's Counsel with a weekly report informing them of any Requests for Exclusion received by the Settlement Administrator during each week following the Class Notice Date. The Settlement Administrator must provide Class Counsel and Defendant's Counsel with a declaration identifying all Settlement Class Members who requested exclusion from the Settlement and indicating those requests that were untimely no later than sixteen (16) days prior to the Final Approval Hearing. Class Counsel will file with the Court and serve Defendant with the declaration along with their Motion for Final Approval.

63. No party will solicit or encourage Requests for Exclusion. Any attempt to do so by Plaintiffs or Defendant will be deemed a breach of this Settlement Agreement.

VIII. OBJECTION TO SETTLEMENT BY CLASS MEMBERS

64. Any Settlement Class Member may make an objection to the proposed Settlement by mailing a letter to the Settlement Administrator at the address set forth in the Class Notice. Any objection to be considered valid must be mailed and postmarked no later than the Objection Date, i.e., sixty (60) days from the Class Notice Date. Class Counsel must file all objections with the Court, with service to all Parties' counsel not later than fourteen (14) days after the Objection Deadline. Any Settlement Class Member who has submitted a Request for Exclusion may not submit any objections or speak at the Final Approval Hearing.

65. To state a valid objection to the Settlement, an objecting Settlement Class Member must mail a letter to the Settlement Administrator setting forth all of the following information in writing: (i) the objector's full name, current address, current telephone number, and be personally signed, (ii) the case name and case number, *Williams et al. v. Air Methods, LLC*, Civil Action No.1:24-cv-00642-NRN, (iii) documentation sufficient to establish membership in the Settlement Class, such as a copy of the Postcard Notice he or she received, (iv) a statement of the position(s) the objector wishes to assert, including the factual and legal grounds for the position(s), (v) copies of any other documents that the objector wishes to submit in support of his/her position, (vi) whether the objecting Settlement Class Member intends to appear at the Final Approval Hearing, and (v) whether the objecting Settlement Class Member is represented by counsel and, if so, the name, address, and telephone number of his/her counsel.

66. Subject to approval of the Court, any objecting Settlement Class Member may appear, in person or by counsel, at the Final Approval Hearing held by the Court. By this provision, the Parties are not waiving and are expressly preserving their right to contest any appearance by

an objector on any grounds, or from asserting any and all other potential defenses and privileges to any such appearance.

67. The agreed-upon procedures and requirements for submitting objections in connection with the Final Approval Hearing are intended to ensure the efficient administration of justice and the orderly presentation of any Settlement Class Member's objection to the Settlement Agreement, in accordance with the due process rights of all Settlement Class Members. The Preliminary Approval Order and Class Notice will require all Settlement Class Members who have any objections to submit the objections to the Settlement Administrator at the address set forth in the Postcard Notice, by no later than the Objection Date.

68. Class Counsel will defend the Court's Final Approval Order and any related orders in the event of an appeal.

IX. RELEASE OF CLAIMS

69. Plaintiffs and Settlement Class Members who fail to timely make a valid Request for Exclusion from the Settlement fully and finally release Defendant and the other Released Parties from any and all past, present, and future claims and causes of action related to the Security Incident, including, but not limited to, any causes of action arising under or premised upon any statute, constitution, law, ordinance, treaty, regulation, or common law of any country, state, province, county, city, or municipality, including 15 U.S.C. § 45, *et seq.*, and all similar statutes in effect in any states in the United States as defined below; state consumer-protection statutes; negligence; negligence *per se*; breach of contract; breach of implied contract; breach of third-party beneficiary contract; breach of fiduciary duty; breach of confidence; invasion of privacy; fraud; misrepresentation (whether fraudulent, negligent or innocent); unjust enrichment; bailment; wantonness; failure to provide adequate notice pursuant to any breach notification statute or

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

70. Upon the Effective Date, Defendant shall be deemed to have, and by operation of the Final Approval Order shall have, fully, finally, and forever released, relinquished, and discharged Plaintiffs, each and all of the Settlement Class Members, and Plaintiffs' Counsel of all claims based upon or arising out of the institution, prosecution, assertion, settlement, or resolution of the Action or the Released Claims, except for enforcement of the Settlement Agreement and except as to Settlement Class Members who submit a timely and valid Request for Exclusion from the Settlement.

71. This Settlement Agreement does not affect the rights of Settlement Class Members who submit a timely and valid Request for Exclusion from the Settlement.

72. Upon issuance of the Final Approval Order (i) the Settlement Agreement shall be the exclusive remedy for any and all Settlement Class Members, except those who have opted out in accordance with the provisions hereof, (ii) Defendant and the other Released Parties shall not be subject to liability or expense of any kind to any Settlement Class Member(s) for reasons related to the Action except as set forth herein, and (iii) Settlement Class Members shall be permanently barred from initiating, asserting or prosecuting any and all Released Claims against Defendant and the other Released Parties.

X. REPRESENTATIONS, WARRANTIES, AND COVENANTS

73. Class Counsel represents and warrants that they have the authority, on behalf of Plaintiffs, to execute, deliver and perform this Settlement Agreement and to consummate all of the transactions contemplated hereby. This Settlement Agreement has been duly and validly executed and delivered by Class Counsel and Plaintiffs and constitutes their legal, valid and binding obligation.

74. Air Methods, through its undersigned attorneys, represents and warrants that it has the authority to execute, deliver, and perform this Settlement Agreement and to consummate the transactions contemplated hereby. The execution, delivery and performance by Air Methods of this Settlement Agreement and the consummation by it of the actions contemplated hereby have been duly authorized by Air Methods. This Settlement Agreement has been duly and validly executed and delivered by Air Methods and constitutes its legal, valid and binding obligation.

XI. MISCELLANEOUS PROVISIONS

75. The Parties agree, for purposes of this settlement only, to the certification of the Settlement Class.

76. This Settlement Agreement is not to be used in evidence (except in connection with obtaining approval of this Settlement Agreement and enforcing its terms) and shall not at any time be construed or deemed to be any admission or concession by Defendant with respect to any alleged wrongdoing, fault, or omission of any kind whatsoever, regardless of whether or not this Settlement Agreement results in entry of a Final Approval Order as contemplated herein. Defendant specifically denies all of the allegations made in connection with the Action. Neither this Settlement Agreement nor any class certification pursuant to it shall constitute, in this or in any other proceeding, an admission by Defendant, or evidence or a finding of any kind, that any requirement for class certification is satisfied with respect to the Action, or any other litigation, except for the limited purpose of settlement pursuant to this Settlement Agreement. This Settlement Agreement also is made with the Parties' express understanding and agreement that if for any reason this Settlement is not approved by the Court, Defendant may continue to contest and deny that any class, including the proposed Settlement Class, is suitable for certification as a class under the law of any jurisdiction.

77. This Settlement Agreement is entered into only for purposes of settlement. In the event that the Final Approval Order is not entered, or a Final Approval Order is subsequently reversed on appeal, the Parties agree to use their best efforts to cure any defect(s) identified by the Court. If, despite their best efforts, the Parties cannot cure said defects, this Settlement Agreement, including any releases or dismissals hereunder, is canceled, and no term or condition of this Settlement Agreement, or any draft thereof, or of the discussion, negotiation, documentation or other part or aspect of the Parties' settlement discussions, shall have any effect, nor shall any such matter be admissible in evidence for any purpose, or used for any purposes

whatsoever in the Action, and all Parties shall be restored to their prior rights and positions as if the Settlement Agreement had not been entered into.

78. The headings of the sections and paragraphs of this Settlement Agreement are included for convenience only and shall not be deemed to constitute part of this Settlement Agreement or to affect its construction.

79. This Settlement Agreement may not be modified or amended except in writing and signed by all of the Parties.

80. This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

81. Except as otherwise provided in this Settlement Agreement, each Party shall bear his, her or its own costs of the Action.

82. The Parties reserve the right, by agreement and subject to the Court's approval, to grant any reasonable extensions of time that might be necessary to carry out any of the provisions of this Settlement Agreement, as well as to correct any inadvertent, non-substantive mistakes or typographical errors contained in any of the Settlement papers.

83. The administration and consummation of the Settlement as embodied in this Settlement Agreement shall be under the authority of the Court. The Court shall retain jurisdiction to protect, preserve, and implement the Settlement Agreement, including, but not limited to, the release. The Final Approval Order will provide that the Court expressly retains jurisdiction to enter such further orders as may be necessary or appropriate in administering and implementing the terms and provisions of this Settlement Agreement, including, but not limited to, orders enjoining

Class Members from prosecuting claims that are released pursuant to this Settlement Agreement as provided herein, and allowing for discovery related to objectors, if any.

84. The determination of the terms of, and the drafting of, this Settlement Agreement has been by mutual agreement after negotiation, with consideration by and participation of all Parties and their counsel. Since this Settlement Agreement was drafted with the participation of all Parties and their counsel, the presumption that ambiguities shall be construed against the drafter does not apply. The Parties were represented by competent and effective counsel throughout the course of settlement negotiations and in the drafting and execution of this Settlement Agreement, and there was no disparity in bargaining power among the Parties to this Settlement Agreement.

85. This Settlement Agreement constitutes the entire, fully integrated agreement among the Parties and cancels and supersedes all prior written and unwritten agreements and understandings pertaining to the Settlement of the Action.

86. The Parties agree that any unresolved disputes regarding the meaning of the terms and conditions of this Settlement Agreement, the Parties' rights and obligations under this Settlement Agreement, and/or as to any disagreement regarding the manner in which any issue or dispute arising under this Settlement Agreement should be resolved, shall be submitted to the Court for resolution.

87. All time periods set forth herein shall be computed in calendar days unless otherwise expressly provided. In computing any period of time prescribed or allowed by this Agreement or by order of the Court, the day of the act, or default, from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period shall run

until the end of the next day that is not one of the aforementioned days. Each of the Parties reserves the right, subject to the Court's approval, to seek any reasonable extensions of time that might be necessary to carry out any of the provisions of this Agreement, and to modify or supplement any notice contemplated hereunder.

88. Any failure by any of the Parties to insist upon the strict performance by any of the other Parties of any of the provisions of this Agreement shall not be deemed a waiver of any provision of this Agreement, and such Party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions herein.

89. All notices to the Parties or counsel required by this Settlement Agreement shall be made in writing and communicated by electronic and regular mail to the following addresses (unless one of the Parties subsequently designates one or more other designees):

For Class Counsel:

David K. Lietz
**Milberg Coleman Bryson Phillips
Grossman PLLC**
5335 Wisconsin Avenue NW, Suite 440
Washington, DC 20015
Telephone: 866-252-0878
Email: dlietz@milberg.com

For Air Methods:

Casie D. Collignon #35160
Keeley O. Cronin # 54693
Baker & Hostetler LLP
1801 California Street, Suite 4400
Denver, CO 80202
Telephone: 303.861.0600
Fax: 303.861.7805
E-Mail: ccollignon@bakerlaw.com
kcronin@bakerlaw.com

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, Plaintiffs and Air Methods, by and through their respective counsel, have executed this Settlement Agreement as of the date(s) indicated on the lines below.

Class Counsel

Counsel for Air Methods, LLC
Duly Authorized Signatory

DATED this 12th day of July, 2024

DATED this 12th day of July, 2024

By: /s/ David K Lietz

By: /s/ Casie D Collignon

David K. Lietz
**MILBERG COLEMAN BRYSON
PHILLIPS GROSSMAN PLLC**
227 W. Monroe Street, Suite 2100
Chicago, IL 60606
Telephone: (866) 252-0878
E-mail: dlietz@milberg.com

Casie D. Collignon (35160)
Keeley O. Cronin (54693)
BAKER & HOSTETLER LLP
1801 California Street, Suite 4400
Denver, CO 80202-2662
Telephone: (303) 861-0600
E-mail: ccollignon@bakerlaw.com
kcronin@bakerlaw.com

By: /s/ Rachel Williams
Rachel Williams (Jul 12, 2024 18:04 EDT)

Rachel Williams
Plaintiff

By: /s/ _____

Genoveva Milton
Plaintiff

IN WITNESS WHEREOF, Plaintiffs and Air Methods, by and through their respective counsel, have executed this Settlement Agreement as of the date(s) indicated on the lines below.

Class Counsel

Counsel for Air Methods, LLC
Duly Authorized Signatory

DATED this ___ day of _____, 2024

DATED this 12th day of July, 2024

By: /s/ _____


By: /s/ 

David K. Lietz
**MILBERG COLEMAN BRYSON
PHILLIPS GROSSMAN PLLC**
227 W. Monroe Street, Suite 2100
Chicago, IL 60606
Telephone: (866) 252-0878
E-mail: dlietz@milberg.com

Casie D. Collignon (35160)
Keeley O. Cronin (54693)
BAKER & HOSTETLER LLP
1801 California Street, Suite 4400
Denver, CO 80202-2662
Telephone: (303) 861-0600
E-mail: ccollignon@bakerlaw.com
kcronin@bakerlaw.com

By: /s/ _____

Rachel Williams
Plaintiff

DocuSigned by:

E4477EA4364349C

By: /s/ _____
Genoveva Milton
Plaintiff

Exhibit A

Air Methods, LLC Security Incident Settlement
Administrator

**Your Claim Form Must Be Submitted
Electronically or Postmarked by [ADD
DATE]**

[ADD ADDRESS and WEBSITE]

Williams et al. v. Air Methods, LLC, Civil Action No.1:24-cv-00642-NRN
United States District Court for the District of Colorado

SETTLEMENT PAYMENT CLAIM FORM

IN ORDER TO BE VALID, THIS CLAIM FORM MUST BE RECEIVED ONLINE AT [INSERT WEBSITE] OR POSTMARKED NO LATER THAN [INSERT DATE].

ATTENTION: This Claim Form may be used by individuals who received direct notice from Air Methods, LLC (“Air Methods” or “Defendant”) that their Personal Information may have been implicated in a November 2023 security incident in which a criminal third-party stole a laptop that may have contained patient information (“Security Incident”). All Settlement Class Members are eligible to claim: (i) up to two thousand five hundred dollars (\$2,500) reimbursement of documented out-of-pocket losses that are reasonably traceable to the Security Incident (“Documented Out-of-Pocket Losses”); (ii) a pro rata cash payment estimated to be seventy-five dollars (\$75) (“Pro Rata Cash Payment”); and (iii) two years of Identity Defense Total Credit Monitoring (“Credit Monitoring”).

To submit a Valid Claim, you must have been identified as a Settlement Class Member and received Postcard Notice of this Settlement with a **unique Claim Number**. You are a Settlement Class Member if you received direct notice that your Personal Information may have been implicated in the Security Incident.

You may file a claim for reimbursement for Documented Out-of-Pocket Losses. Documented Out-of-Pocket Losses consist of actual, documented out-of-pocket monetary losses, up to two thousand five hundred dollars (\$2,500).

In addition to seeking reimbursement for Documented Out-of-Pocket Losses, you may also make a claim for a Pro Rata Cash Payment estimated to be seventy-five dollars (\$75).

In addition to the Documented Out-of-Pocket Losses and Pro Rata Cash Payment, you may also make a claim for two years of Credit Monitoring.

PLEASE BE ADVISED that any documentation you provide in support of your Documented Out-of-Pocket Losses claim must be submitted **WITH** this Claim Form. No documentation is required for claiming the Pro Rata Cash Payment or the Credit Monitoring.

CLAIM VERIFICATION: All claims are subject to verification. You will be notified if additional information is needed to verify your claim.

ASSISTANCE: If you have questions about this Claim Form, please visit the Settlement Website at [INSERT] for additional information or call [INSERT PHONE NUMBER].

PLEASE KEEP A COPY OF YOUR CLAIM FORM AND PROOF OF MAILING FOR YOUR RECORDS.

Failure to submit required documentation, or to complete all parts of the Claim Form, may result in denial of the claim, delay its processing, or otherwise adversely affect the claim.

REGISTRATION

First Name:	MI:	Last Name:
<input type="text"/>	<input type="text"/>	<input type="text"/>
Mailing Address:		
<input type="text"/>		
City:	State:	ZIP Code:
<input type="text"/>	<input type="text"/>	<input type="text"/>
Telephone Number:		
<input type="text"/>	-	<input type="text"/>
Email Address:		
<input type="text"/>		

Please provide the Claim Number identified in the Postcard Notice that was mailed to you:

Instructions. Please follow the instructions below and answer the questions as instructed.

CLAIM INFORMATION

Section A. Confirm Your Eligibility

Did you receive a unique Claim Number indicating that you may be a member of the Settlement Class?

Yes No

If yes, continue to the next question. If no, you are not a member of the Settlement Class and do not qualify to file a claim.

Section B. Reimbursement for Documented Out-of-Pocket Losses

You may submit a claim for reimbursement of documented out-of-pocket losses reasonably traceable to the Security Incident.

If it is verified that you meet all the criteria described in the Settlement Agreement and you submit the dollar amount of those losses along with sufficient documentation, you will be eligible to receive a payment compensating you for your losses of up to two thousand five hundred dollars (**\$2,500**).

Examples of documentation that can be used to support your claim include: receipts, account statements, etc. You may also support your claim by submitting information on the Claim Form that describes the

expenses and how they were incurred. “Self-prepared” documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but can be considered to add clarity to or support other submitted documentation.

Providing documentation for your claimed losses does not guarantee that you will be entitled to receive the full amount claimed. All Valid Claims will also be subject to an aggregate maximum payment amount, as explained in the Settlement Agreement. If the amount of losses claimed exceeds the maximum amount of money available under the Settlement Agreement, then the payment for your claim will be reduced on a pro rata basis. If you would like to learn more, please review the Settlement Agreement for further details.

Payment for your Valid Claim will be paid directly to you electronically unless you request to be paid by check as indicated below.

If you expended money as a result of fraud or identity theft reasonably traceable to the Security Incident, you are eligible to see reimbursement for those documents, out-of-pocket losses. Examples include, without limitation:

- Unreimbursed losses relating to fraud or identity theft;
- Professional fees including attorneys’ fees, accountants’ fees, and fees for credit repair services;
- Costs associated with freezing or unfreezing credit with any credit reporting agency;
- Credit monitoring costs that were incurred on or after November 9, 2023; and
- Other expenses reasonably attributable to the Security Incident, such as notary, data charges (if charged based on the amount of data used) fax, postage, copying, mileage, cell phone charges (only if charged by the minute), and long-distance telephone charges.

For each loss that you believe can be traced to the Security Incident, please provide a description of the loss, the date of the loss, the dollar amount of the loss, and the type of documentation you will be submitting to support the loss. **You must provide this information for this Claim Form to be processed.** Supporting documentation must be submitted alongside this Claim Form. **If you fail to provide sufficient supporting documents, the Settlement Administrator will deny your claim.** Please provide only copies of your supporting documents and keep all originals for your personal files. The Settlement Administrator will have no obligation to return any supporting documentation to you. A copy of the Settlement Administrator’s privacy policy is available at [\[Insert Website\]](#). Please do not directly communicate with Air Methods regarding this matter. All inquiries are to be sent to the Settlement Administrator.

Examples of documentation include receipts for identity theft protection services, etc.

Description of the Loss	Date of Loss	Amount	Type of Supporting Documentation															
Example: Unauthorized credit card charge	<table border="1" style="width: 100%; text-align: center;"> <tr> <td style="width: 33%;">[] []</td> <td style="width: 33%;">-</td> <td style="width: 33%;">[] []</td> <td style="width: 33%;">-</td> <td style="width: 33%;">[] []</td> </tr> <tr> <td>M</td> <td></td> <td>DD</td> <td></td> <td>YY</td> </tr> <tr> <td>M</td> <td></td> <td></td> <td></td> <td></td> </tr> </table>	[] []	-	[] []	-	[] []	M		DD		YY	M					\$50.00	Letter from Bank
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By checking the below box, I hereby declare under penalty of perjury that the information provided in this Claim Form to support the claimed Documented Out-of-Pocket Losses is true and correct.

- Yes, I understand that I am submitting this Claim Form and the affirmations it makes as to my seeking relief for Documented Out-of-Pocket Losses under penalty of perjury. I further understand that my failure to check this box may render my claim for Documented Out-of-Pocket Losses null and void.**

Section C. Pro Rata Cash Payment

In addition to compensation for Documented Out-of-Pocket Losses, you may also make a claim for a Pro Rata Cash Payment estimated to be seventy-five dollars (\$75).

The amount of this pro rata cash payment may increase or decrease depending upon the number of Valid Claims made.

By checking the below box, I choose a Pro Rata Cash Payment of seventy-five dollars (\$75).

- Yes, I choose a Pro Rata Cash Payment of seventy-five dollars (\$75).**

Section D. Identity Theft Protection and Credit Monitoring

In addition to the Documented Out-of-Pocket Losses and Pro Rata Cash Payment, you may also make a claim for two years of Identity Defense Total Credit Monitoring. An activation code for this service will be emailed to you after the Settlement is finally approved by the Court and the time for all appeals has expired.

By checking the below box, I choose to receive two years of Identity Defense Total Credit Monitoring.

- Yes, I choose to receive two years of Identity Defense Total Credit Monitoring.**

Section E. Payment

Please select the manner in which payment will be issued for your Valid Claim.

- PayPal*: _____ (PayPal Email Address)
- Venmo*: _____ (Venmo Email Address)
- Zelle*: _____ (Zelle Email Address)
- Paper Check via Mail _____

*If you select payment via PayPal, Venmo or Zelle, the email address entered on this form will be used to process the payment to your account linked to that email address.

Section E. Settlement Class Member Affirmation

By submitting this Claim Form and checking the box below, I declare that I received notification from Air Methods that my Personal Information may have been implicated in the Security Incident. I declare that the claim of losses I have submitted are reasonably traceable to the Security Incident.

I understand that my claim and the information provided above will be subject to verification.

By submitting this Claim Form, I certify that any documentation that I have submitted in support of my claim consists of unaltered documents in my possession.

Yes, I understand that my failure to check this box may render my claim null and void.

Please include your name in both the Signature and Printed Name fields below.

Signature: _____

Print Name: _____

Date: _____

IN ORDER TO BE VALID, THIS CLAIM FORM MUST BE MAILED BY OR RECEIVED ONLINE AT [INSERT WEBSITE] NO LATER THAN [INSERT CLAIMS DEADLINE]

EXHIBIT B

NOTICE OF CLASS ACTION SETTLEMENT

United States District Court for the District of Colorado
Williams et al. v. Air Methods, LLC
Civil Action No.1:24-cv-00642-NRN

To: All individuals who received direct notice that their Personal Information may have been implicated in a November 2023 Security Incident.

A proposed settlement has been reached in the putative class action lawsuit titled *Williams et al. v. Air Methods, LLC*, Civil Action No.1:24-cv-00642-NRN (the “Action”). The Action arises out of Plaintiffs’ claims against Air Methods, LLC (“Defendant” or “Air Methods”) related to a November 2023 security incident in which a criminal third-party stole a laptop that may have contained patient information (“Security Incident.”) Defendant denies all charges of wrongdoing or liability, and denies all claims or contentions alleged against it.

If you received direct notice that your Personal Information may have been implicated in the Security Incident, you are included in this Settlement as a member of the Settlement Class.

Under the Settlement, Defendant has agreed to establish a \$240,000 Settlement Fund which will be used to pay (i) Settlement benefits; (ii) the costs of Settlement Administration; (iii) Plaintiffs’ Counsel’s Fees and Expenses; and (iv) Service Awards.

Settlement Class Members may submit claims for benefits under the Settlement. Certain of the amounts paid will depend upon how many Settlement Class Members submit Valid Claims, but initially are set at the following amounts:

- (1) Documented Out-of-Pocket Losses: Reimbursement of up to two thousand five hundred dollars (**\$2,500**) for unreimbursed costs or expenditures incurred by a Settlement Class Member between November 9, 2023 and the Claims Deadline, as result of the Security Incident. Documented Out-of-Pocket Losses may include, but are not limited to, unreimbursed costs, expenses, or charges incurred addressing or remedying identity theft, fraud, or misuse of Personal Information and/or other issues reasonably traceable to the Security Incident;
- (2) Pro Rata Cash Payment: In addition to payments for Documented Out-of-Pocket Losses, the Settlement provides for a Pro Rata Cash Payment estimated to be seventy-five dollars (**\$75**); and
- (3) Two Years of Identity Defense Total Credit Monitoring, a state-of-the-art identity theft protection and credit monitoring service provided by Cyex.

Your legal rights will be affected whether you act or do not act. You should read this entire Notice carefully:

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
File a Claim Form Deadline: DATE	You must submit a valid Claim Form to receive a cash payment or credit monitoring from this Settlement.

	If you submit a Claim Form, you will give up the right to sue Defendant and the other Released Parties (as defined in the Settlement Agreement) in a separate lawsuit about the legal claims this Settlement resolves.
Exclude Yourself from This Settlement Deadline: DATE	You may exclude yourself from this Settlement and keep your right to sue separately. If you exclude yourself, you will receive no payment. Exclusion instructions are provided in this Notice.
Object to or Comment on the Settlement Deadline: DATE	If you do not exclude yourself, you may write to the Court to comment on or detail why you do not like the Settlement by following the instructions in this Notice. The Court may reject your objection. You must still file a Claim Form if you desire any monetary relief under the Settlement.
Go to the Final Approval Hearing on DATE	You may attend the Final Approval Hearing where the Court may hear arguments concerning approval of the Settlement. If you wish to speak at the Final Approval Hearing, you must make a request to do so in your written objection or comment. You are not required to attend the Final Approval Hearing.
Do Nothing	If you do nothing, you will receive no cash payment or credit monitoring and will no longer be able to sue Defendant or the other Released Parties over the claims resolved in the Settlement.

The Court must give final approval to the Settlement before it takes effect, but has not yet done so. No payments will be made until after the Court gives final approval and any appeals are resolved.

Please review this Notice carefully. You can learn more about the Settlement by visiting www._____.com or by calling 1-800-XXX-XXXX.

Further Information about this Notice and the Action

1. Why was this notice issued?

Settlement Class Members are eligible to receive benefits from a proposed Settlement in the Action. The Court overseeing the Action authorized this notice to advise Settlement Class Members about the proposed Settlement that will affect their legal rights. This notice explains certain legal rights and options Settlement Class Members have in connection with the Settlement.

2. What is the Action about?

The Action is a putative class action lawsuit brought on behalf of all individuals who received direct notice that their Personal Information may have been implicated in a November 2023

security incident in which a criminal third-party stole a laptop that may have contained patient information (“Security Incident”).

The Action claims that Defendant is legally responsible for the Security Incident and asserts various legal claims including negligence, negligence *per se*, breach of implied contract, and unjust enrichment. Defendant denies each and all of the claims and contentions alleged against it in the Operative Complaint. Defendant denies all charges of wrongdoing or liability as alleged, or which could be alleged.

3. *Why is the Action a class action?*

In a class action, one or more representative plaintiffs bring a lawsuit on behalf of others who have similar claims. Together, all these people are the “Settlement Class,” and each individual is a “Settlement Class Member.” There are two Class Representatives in this case: Rachel Williams and Genoveva Milton.

4. *Why is there a Settlement?*

The Plaintiffs in the Action, through their attorneys, investigated the facts and law relating to the issues in the Action. The Plaintiffs and Class Counsel believe that the Settlement is fair, reasonable, and adequate and will provide substantial benefits to the Settlement Class. The Court has not decided whether the Class Representatives’ claims or Defendant’s defenses have any merit, and it will not do so if the proposed Settlement is approved. By agreeing to settle, both sides avoid the cost and risk of a trial, and members of the Settlement Class who submit Valid Claims will receive certain benefits. The Settlement does not mean that Defendant did anything wrong, or that the Class Representatives and the Settlement Class would or would not win the case if it were to go to trial.

Terms of the Proposed Settlement

5. *Who is in the Settlement Class?*

The Settlement Class is defined as “all individuals who received direct notice that their Personal Information may have been implicated in the November 2023 Security Incident.”

Excluded from the Settlement Class are the following individuals and/or entities: (1) Air Methods, LLC and its officers and directors; (2) all persons who submit a timely and valid request for exclusion from the Settlement Class; (3) the Court; and (4) any person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity occurrence of the Security Incident, or who pleads *nolo contendere* to any such charge.

6. *What are the terms of the Settlement?*

The proposed Settlement includes a Settlement Fund of two hundred and forty thousand dollars (\$240,000) that will be used to pay all costs of the Settlement, including: (i) Settlement benefits; (ii) the costs of Settlement Administration; (iii) Plaintiffs’ Counsel’s Fees and Expenses, not to

exceed one third of the Settlement Fund, or eighty thousand dollars (\$80,000); and (iv) Service Awards, not to exceed two thousand five hundred dollars (\$2,500) to each Class Representative.

The Settlement also releases all Released Claims (as defined in the Settlement Agreement) against all Released Parties.

7. *What claims are Settlement Class Members giving up under the Settlement?*

Settlement Class Members who do submit timely and valid Requests for Exclusion will be bound by the Settlement and any final judgment entered by the Court and will give up their right to sue Defendant or the other Released Parties for the claims being resolved by the Settlement, including all claims or potential claims of Settlement Class Members against Defendant arising from or related to the Security Incident. The claims that Settlement Class Members are releasing are described in the Settlement Agreement.

Payments to Settlement Class Members

8. *What kind of payments can Settlement Class Members receive?*

Settlement Class Members who submit Valid Claims and any required documentation may receive one or more of the following, to be paid from the Settlement Fund: (i) Documented Out-of-Pocket Losses, which provides reimbursement of up to two thousand and five hundred dollars (\$2,500) for any documented out-of-pocket losses; (ii) a Pro Rata Cash Payment estimated to be seventy-five dollars (\$75); and (iii) two years of Identity Defense Total Credit Monitoring (“Credit Monitoring”).

Depending on how many Valid Claims are submitted, the amounts of the Pro Rata Cash Payment will be adjusted upward or downward proportionally among Settlement Class Members submitting Valid Claims for those awards, as explained further below in Question 11.

9. *What are Documented Out-of-Pocket Losses?*

Documented Out-of-Pocket Losses: Documented Out-of-Pocket Losses means the unreimbursed costs or expenditures incurred by a Settlement Class Member between November 9, 2023 and the Claims Deadline, as result of the Security Incident. Settlement Class Members may seek reimbursement for up to two thousand and five hundred dollars (\$2,500). Examples of Documented Out-of-Pocket Losses may include, but are not limited to, unreimbursed costs, expenses, or charges incurred addressing or remedying identity theft, fraud, or misuse of Personal Information and/or other issues reasonably traceable to the Security Incident.

To make a valid claim for Documented Out-of-Pocket Losses, you must provide documentation of these unreimbursed losses.

10. *What is the Pro Rata Cash Payment?*

In addition, Settlement Class Members may also claim a Pro Rata Cash Payment in an amount estimated to be seventy-five dollars (\$75), by submitting a timely and valid Claim Form regardless

of whether he or she experienced any unauthorized charges or identifiable losses related to the Security Incident. Settlement Class Members seeking a Pro Rata Cash Payment must provide the information required on the Claim Form. The seventy-five dollar (\$75) cash payment is subject to upward or downward adjustment as described below in Question 11.

Eligibility for any award and the validity of your claim, including the Pro Rata Cash Payment, will be determined by the Settlement Administrator as outlined in Question 15.

11. When and how will the amount of Settlement payments be adjusted?

The amount of the Pro Rata Cash Payments will be adjusted upward or downward from the amounts listed in Question 10 depending on how many Settlement Class Members submit Valid Claims.

If the total dollar value of all Valid Claims is less than the amount of money available in the Settlement Fund for payment of those claims, the amounts for Pro Rata Cash Payments will be adjusted upward proportionally among all Valid Claims for those awards, until the amounts remaining in the Settlement Fund are exhausted (or as nearly as possible).

If the total dollar value of all Valid Claims is more than the amount of money available in the Settlement Fund for payment of those Valid Claims, the amount of the payments for Pro Rata Cash Payments will be adjusted downward proportionally among all Settlement Class Members who submitted valid claims for Pro Rata Cash Payments.

12. What happens after all claims are processed and there are funds remaining?

If there are any funds remaining after all Valid Claims are processed and the time to cash any payment checks has passed, those funds shall be distributed as directed by the Court, including potential distribution to a charitable organization. No remaining funds will be returned to Defendant.

Your Options as a Settlement Class Member

13. If I am a Settlement Class Member, what options do I have?

If you are a Settlement Class Member, you do not have to do anything to remain in the Settlement. In order to receive payment or Credit Monitoring from the Settlement, you must submit a valid Claim Form.

If you do not want to give up your right to sue Defendant or the other Released Parties about the Security Incident or the issues raised in this Action, you must exclude yourself (or “opt out”) from the Settlement Class. See Question 16 below for instructions on how to exclude yourself.

If you wish to object to the Settlement, you must remain a Settlement Class Member (i.e., you may not also exclude yourself from the Settlement Class by opting out) and submit a written objection. See Question 19 below for instructions on how to submit an objection.

14. *What happens if I do nothing?*

If you do nothing, you will get no benefits from this Settlement. Unless you exclude yourself, after the Settlement is granted final approval and the judgment becomes final, you will be bound by the judgment and you will never be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendant or the other Released Parties related to the claims released by the Settlement.

15. *Who decides my Settlement claim and how do they do it?*

The Settlement Administrator will decide whether a claim form is complete and valid and includes all required documentation. The Settlement Administrator may require additional information from any claimant. Failure to timely provide all required information will invalidate a claim and it will not be paid.

16. *How do I exclude myself from the Settlement?*

To opt out of the Settlement you must make a signed, written request that includes (i) the name of the proceeding; (ii) your full name, current address and personal signature; and (iii) the words “Request for Exclusion” or a comparable unequivocal statement that you do not wish to participate in the Settlement. You must mail your request to this address:

<SETTLEMENT ADMINISTRATOR>
[INSERT REQUEST FOR EXCLUSION MAILING ADDRESS]

Your request must be submitted online or postmarked by **[OPT-OUT DEADLINE]**.

17. *If I exclude myself, can I receive any payment from this Settlement?*

No. If you exclude yourself, you will not be entitled to any award under the Settlement. However, you will also not be bound by any judgment in this Action.

18. *If I do not exclude myself, can I sue Defendant for the Security Incident later?*

No. Unless you exclude yourself, you give up any right to sue Defendant and the other Released Parties for the claims that this Settlement resolves, known as the Released Claims. You must exclude yourself from the Settlement Class to start your own lawsuit or to be part of any different lawsuit relating to the claims in this case. If you exclude yourself, do not submit a claim form requesting a payment.

19. *How do I object to the Settlement?*

All Settlement Class Members who do not opt-out from the Settlement Class have the right to object to the Settlement or any part of it. You can ask the Court to deny approval by filing an objection. You can't ask the Court to order a different Settlement; the Court can only approve or

reject the Settlement. If the Court denies approval, no Settlement payments will be sent out and the Action will continue. If that is what you want to happen, you must object.

Any objection to the proposed Settlement must be in writing and it and any supporting papers must be mailed to this address:

<SETTLEMENT ADMINISTRATOR>
[INSERT OBJECTION MAILING ADDRESS]

Your objection must be filed or postmarked no later than the objection deadline, **[INSERT OBJECTION DEADLINE]**. Class Counsel will then file your objection with the Court.

To be considered by the Court, your objection must list the name of the lawsuit pending in the United States District Court for the District of Colorado: *Williams et al. v. Air Methods, LLC*, Civil Action No.1:24-cv-00642-NRN, and include all of the following information: (i) your full name, address, telephone number, and email address (if any), (ii) information identifying you as a Settlement Class Member, including proof that you are a member of the Settlement Class (such as the Notice you received from Air Methods or the Notice of this Settlement), (iii) a statement as to whether your objection applies only to yourself, to a specific subset of the Settlement Class, or to the entire Class, (iv) a clear and detailed written statement of the specific legal and factual bases for each and every objection, accompanied by any legal support for the objection you believe is applicable, (v) the identity of any counsel representing you, (vi) a statement of whether you intend to appear at the Final Approval Hearing, either in person or through counsel, and, if through counsel, identifying that counsel, (vii) a list of all persons who will be called to testify at the Final Approval Hearing in support of your objections and any documents to be presented or considered, and (viii) your signature and the signature of your duly authorized attorney or other duly authorized representative (if any).

If you submit a timely written objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney.

Court Approval of the Settlement

20. *How, when, and where will the Court decide whether to approve the Settlement?*

The Court will hold a Final Approval Hearing to decide whether to approve the Settlement. That hearing is scheduled for _____, 202__ at _____ a.m./p.m. at the United States District Court for the District of Colorado, before Magistrate Judge N. Reid Neureiter, Alfred A. Arraj United States Courthouse, 901 19th Street, Room A401, Denver, Colorado 80294-3589. The Final Approval Hearing may be held via remote means. Please visit the Court's website at <https://www.cod.uscourts.gov/> for current information regarding courthouse access and court hearings. At the Final Approval Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are timely objections, the Court will consider them and will listen to people who have properly requested to speak at the hearing. The Court may also consider

Plaintiffs' Counsel's Fees and Expenses request, and the request for Service Awards for the Class Representatives. After the hearing, the Court will decide whether to approve the Settlement.

It is possible the Court could reschedule the Final Approval Hearing to a different date or time, or set the Final Approval Hearing to occur remotely without notice, so it is a good idea before the hearing to check www._____.com or access the Court docket in this case, for a fee, through the Court's Public Access System at <https://ecf.cod.uscourts.gov> to confirm the schedule if you wish to attend.

21. *Do I have to attend the Final Approval Hearing?*

No. You do not need to attend the Final Approval Hearing unless you object to the Settlement and wish to appear in person. It is not necessary to appear in person in order to make an objection; the Court will consider any written objections properly submitted according to the instructions in Question 19. You or your own lawyer are welcome to attend the hearing at your expense, but are not required to do so.

22. *What happens if the Court approves the Settlement?*

If the Court approves the Settlement and no appeal is taken, the Settlement Fund will be fully funded. The Settlement Administrator will pay the Plaintiffs' Counsel's Fees and Expenses and any Service Awards from the Settlement Fund. Then, the Settlement Administrator will send settlement payments to Settlement Class Members who submitted Valid Claims.

If any appeal is taken, it is possible the Settlement could be disapproved on appeal.

23. *What happens if the Court does not approve the Settlement?*

If the Court does not approve the Settlement, there will be no Settlement payments to Settlement Class Members, Class Counsel or the Class Representatives, and the case will proceed as if no Settlement had been attempted.

Lawyers for the Settlement Class and Defendant

24. *Who represents the Settlement Class?*

The Court has appointed the following Class Counsel to represent the Settlement Class in this Lawsuit:

<p>David K. Lietz, Esq. Gary M. Klinger, Esq. MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN 5335 Wisconsin Avenue NW, Suite 440 Washington, DC 20015 (866) 252-0878</p>

Settlement Class Members will not be charged for the services of Class Counsel. Class Counsel will be paid out of the Settlement Fund, subject to Court approval. However, you may hire your own attorney at your own cost to advise you in this matter or represent you in making an objection or appearing at the Final Approval Hearing.

25. *How will the lawyers for the Settlement Class be paid?*

Class Counsel will request the Court’s approval of an award for Plaintiffs’ Counsel’s Fees and Expenses up to one-third of the Settlement Fund, or eighty thousand dollars (\$80,000), plus reasonable costs and expenses. Class Counsel will also request approval of Service Awards of two thousand five hundred dollars (\$2,500) for each Class Representatives, which shall also be paid from the Settlement Fund.

26. *Who represents Defendant in the Lawsuit?*

Defendant is represented by the following counsel:

Defendant’s Counsel
<p>Casie D. Collignon, Esq. Keeley O. Cronin, Esq. Baker & Hostetler LLP 1801 California Street, Suite 4400 Denver, CO 80202 (303) 861-0600</p>

For Further Information

27. *What if I want further information or have questions?*

This notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Settlement Agreement and Release available at www._____.com, by contacting the Settlement Administrator at the following toll-free phone number (1-XXX-XXX-XXXX), by accessing the Court docket in this case, for a fee, through the Court’s Public Access system at <https://www.cod.uscourts.gov/> or by visiting the Clerk

of the Court, Alfred A. Arraj United States Courthouse
901 19th Street, Room A-105 Denver, Colorado 80294-3589 between 8:00 a.m. and 5:00 p.m.,
Monday through Friday, excluding Court holidays.

Simpluris will act as the Settlement Administrator for the Settlement. You can contact the
Settlement Administrator at:

[INSERT CONTACT INFO FOR SETTLEMENT ADMINISTRATOR]

Please do not contact the Court or Defendant's Counsel.

EXHIBIT C

LEGAL NOTICE

**If you received direct notice
of a November 2023 Security
Incident, you may be entitled
to benefits from a class
action settlement.**

A federal district court authorized this Notice.

(8XX) XXX-XXXX
www.URL.com

Air Methods Settlement Administrator
P.O. Box XXXXX
XXXXXX

First-Class
Mail
US Postage
Paid
Permit #__

«Barcode»

Postal Service: Please do not mark barcode

«ClassMemberID»

«First1» «Last1»

«CO»

«Addr1» «Addr2»

«City», «St» «Zip»

«Country»

A \$240,000 settlement has been proposed in a putative class action lawsuit against Air Methods, LLC (“Defendant” or “Air Methods”) relating to a November 2023 incident in which a criminal third-party stole a laptop that may have contained patient information (“Security Incident”). Defendant denies all allegations of wrongdoing or liability.

Who is included? Air Methods’ records indicate that you are included in the Settlement Class. The Settlement Class includes all individuals who received direct notice that their Personal Information may have been implicated in the November 2023 Security Incident. (“Settlement Class”).

What does the Settlement provide? The Settlement provides Settlement Class Members with the right to claim (1) compensation for Documented Out-of-Pocket Losses (up to \$2,500); (2) a Pro Rata Cash Payment estimated to be \$75; and (3) two years of Identity Defense Total Credit Monitoring.

How do I get benefits? You must complete and submit a Claim Form by **DATE**. Claim Forms are available and may be filed online at www.URL.com. Claim Forms also may be printed from the Settlement Website or requested by calling the Settlement Administrator and submitted by mail postmarked by **DATE**.

What are my other options? If you do not want to be legally bound by the settlement, you must exclude yourself by **DATE**. Unless you exclude yourself from the settlement, you will not be able to sue Air Methods or any other Released Parties for any claim released by the Settlement Agreement. If you do not exclude yourself from the settlement, you may object and notify the Court that you or your lawyer intend to appear at the Court’s Final Approval Hearing. Objections must be filed by **DATE**.

The Court’s Final Approval Hearing. The Court will hold a Final Approval Hearing in this case (*Williams et al. v. Air Methods, LLC*, Civil Action No.1:24-cv-00642-NRN) on **DATE, 2024, at X:XX p.m.** at the U.S. District Court in Denver, Colorado or by remote means. At this hearing, the Court will decide whether to approve: (1) the Settlement; (2) Class Counsel’s request for up to \$80,000 in attorneys’ fees, plus reimbursement of costs; and (3) \$2,500 Service Awards to each Class Representative. You may appear at the hearing, but you do not have to. You also may hire your own attorney, at your own expense, to appear or speak for you at the hearing.

This is only a summary of the settlement. For more information, visit URL.

EXHIBIT D

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No.1:24-cv-00642-NRN

RACHEL WILLIAMS and
GENOVEVA MILTON, individually
and on behalf of all others similarly situated,

Plaintiffs,

v.

AIR METHODS, LLC,

Defendant.

[PROPOSED] PRELIMINARY APPROVAL ORDER

Before this Court is Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement ("Motion"). The Court has reviewed the Motion and Settlement Agreement between Plaintiffs and Defendant Air Methods, LLC. After reviewing Plaintiffs' unopposed request for preliminary approval, this Court grants the Motion and preliminarily concludes that the proposed Settlement is fair, reasonable, and adequate.

IT IS HEREBY ORDERED THAT:

1. The Settlement Agreement,¹ including the proposed notice plan and forms of notice to the Settlement Class, the appointment of Plaintiffs Rachel Williams and Genoveva Milton as the Class Representatives, the appointment of David K. Lietz and Gary M. Klinger as Class Counsel for Plaintiffs and the Settlement Class, the approval of Simpluris as the Settlement

¹ All capitalized terms used in this Order shall have the same meanings as set for in the Settlement Agreement.

Administrator, the various forms of class relief provided under the terms of the settlement and the proposed method of distribution of settlement benefits, are fair, reasonable, and adequate, subject to further consideration at the Final Approval Hearing described below.

2. The Court does hereby preliminarily and conditionally approve and certify, for settlement purposes, the following Settlement Class:

the approximately 24,568 individuals who received direct notification that their Personal Information may have been implicated in the Security Incident.²

3. Based on the information provided, for the purposes of settlement only: the Settlement Class is ascertainable; it consists of roughly 24,568 Settlement Class Members satisfying numerosity; there are common questions of law and fact including whether Defendant failed to implement and maintain reasonable security procedures and practices appropriate to the nature and scope of the information potentially implicated in the Security Incident, satisfying commonality; the proposed Class Representatives' claims are typical in that they are members of the Settlement Class and allege they have been damaged by the same conduct as the other members of the Settlement Class; the proposed Class Representatives and Class Counsel fully, fairly, and adequately protect the interests of the Settlement Class; questions of law and fact common to members of the Settlement Class predominate over questions affecting only individual members for settlement purposes; and a class action for settlement purposes is superior to other available methods for the fair and efficient adjudication of this Action.

4. The Court appoints Plaintiffs Rachel Williams and Genoveva Milton as the Class Representatives.

5. The Court appoints Gary M. Klinger and David K. Lietz of Milberg Coleman

² “Security Incident” shall mean the November 2023 incident in which a criminal third-party stole a laptop that may have contained certain patient information.

Bryson Phillips Grossman, PLLC as Class Counsel for the Settlement Class.

6. The Court appoints Simpluris as the Settlement Administrator.

7. A Final Approval Hearing shall be held before the Court on ____ [date] _____, 2024 at ____ [time] _____, or by remote means, for the following purposes:

- a) To determine whether the proposed Settlement is fair, reasonable, and adequate to the Settlement Class and should be approved by the Court;
- b) To determine whether to grant Final Approval, as defined in the Settlement Agreement;
- c) To determine whether the notice plan conducted was appropriate;
- d) To determine whether the claims process under the Settlement is fair, reasonable and adequate and should be approved by the Court;
- e) To determine whether the requested Class Representative Service Awards of \$2,500.00 each, and Class Counsel's attorneys' fees, of up to 1/3 of the Settlement Fund (\$80,000) plus reasonable out-of-pocket litigation expenses should be approved by the Court;
- f) To determine whether the settlement benefits are fair, reasonable, and adequate; and,
- g) To rule upon such other matters as the Court may deem appropriate.

8. The Court approves, as to the form and content, the notices (including the Postcard Notice). Furthermore, the Court approves the implementation of the Settlement Website and the proposed methods of mailing or distributing the notices substantially in the form as presented in the exhibits to the Unopposed Motion for Preliminary Approval of Class Action Settlement, and

finds that such notice plan meets the requirements of Fed. R. Civ. P. 23 and due process, and is the best notice practicable under the circumstances, and shall constitute due and efficient notice to all persons or entities entitled to notice.

9. The Court preliminarily approves the following Settlement Timeline for the purposes of conducting the notice plan, Settlement Administration, claims processing, and other execution of the proposed Settlement:

SETTLEMENT TIMELINE

<u>From Order Granting Preliminary Approval</u>	
Defendant provides Class Member Information to the Settlement Administrator	+10 days after preliminary approval order
Long Form and Postcard Notices Posted on the Settlement Website	Upon Class Notice Date
Class Notice Date	+30 days after preliminary approval order
Plaintiffs' Counsel's motion for Fees and Expenses and Service Awards	-14 days before the Request for Exclusion and Objection Deadlines
Objection Deadline	+60 days after Class Notice Date
Request for Exclusion Deadline	+60 days after Class Notice Date
Claims Deadline	+90 days after Class Notice Date
<u>Final Approval Hearing</u>	
Motion for Final Approval	_____, 2024
	-14 days from the Final Approval Hearing
<u>From Order Granting Final Approval</u>	
Effective Date	+31 days, assuming no appeal has been taken. See definition of Final in the Agreement.
Payment of Plaintiffs' Counsel's Fees and Expenses and Service Awards	+10 days after Effective Date
Payment of Valid Claims to Settlement Class Members	+30 days of Effective Date
Settlement Website Deactivation	+180 days after Effective Date

10. In order to be a timely claim under the Settlement, a Claim Form must be either postmarked or received by the Settlement Administrator no later than 90 days after the Class Notice Date. Class Counsel and the Settlement Administrator will ensure that all specific dates and

deadlines are added to the Postcard Notice and posted on the Settlement Website after this Court enters this Order in accordance with the timeline being keyed on the grant of this Order.

11. Additionally, all requests to opt out or object to the proposed Settlement must be postmarked by or received by the Settlement Administrator no later than 60 days after the Class Notice Date. Any request for exclusion from the Settlement should, to the extent possible, contain words or phrases such as “opt-out,” “exclusion,” or words or phrases to that effect indicating an intent not to participate in the settlement or be bound by this Agreement to Simpluris. Requests for Exclusion shall not be rejected simply because they were inadvertently sent to the Court or Class Counsel so long as they are timely postmarked or received by the Court, Simpluris, or Class Counsel. Settlement Class Members who seek to exclude themselves shall receive no benefit or compensation under this Agreement.

12. Settlement Class Members may submit an objection to the proposed Settlement under Federal Rule of Civil Procedure 23(e)(5). For an Objection to be valid, it must Settlement must be postmarked by or received by the Settlement Administrator no later than 60 days after the Class Notice Date and include each and all of the following:

- (i) the objector’s full name, current address, current telephone number, and be personally signed,
- (ii) (ii) the case name and case number, *Williams et al. v. Air Methods, LLC*, Civil Action No.1:24-cv-00642-NRN,
- (iii) documentation sufficient to establish membership in the Settlement Class, such as a copy of the Postcard Notice he or she received,
- (iv) a statement of the position(s) the objector wishes to assert, including the factual and legal grounds for the position(s),

- (v) (v) copies of any other documents that the objector wishes to submit in support of his/her position,
- (vi) whether the objecting Settlement Class Member intends to appear at the Final Approval Hearing, and
- (vii) (v) whether the objecting Settlement Class Member is represented by counsel and, if so, the name, address, and telephone number of his/her counsel.

Any Objection failing to include the requirements expressed above will be deemed to be invalid. Furthermore, any Settlement Class Member objecting to the Settlement agrees to submit to any discovery related to the Objection. Any Settlement Class Member objecting to the Settlement agrees to submit to any discovery related to the Objection.

13. All Settlement Class Members shall be bound by all determinations and judgments in this Action concerning the Settlement, including, but not limited to, the releases, including the Released Claims, provided for in the Settlement Agreement, whether favorable or unfavorable, except those who timely and validly request exclusion from the Settlement Class. The persons and entities who timely and validly request exclusion from the Settlement Class will be excluded from the Settlement Class and shall not have rights under the Settlement Agreement, shall not be entitled to submit Claim Forms, and shall not be bound by the Settlement Agreement or any Final Approval order as to Air Methods, LLC in this Action.

14. Pending final determination of whether the Settlement Agreement should be approved, Plaintiffs and the Settlement Class are barred and enjoined from commencing or prosecuting any claims asserting any of the Released Claims against Air Methods, LLC or the other Released Parties.

15. In the event that the Settlement Agreement is terminated pursuant to the terms of

the Settlement Agreement: (a) the Settlement Agreement and this Order shall become void, shall have no further force or effect, and shall not be used in the Action or any other proceedings for any purpose other than as may be necessary to enforce the terms of the Settlement Agreement that survive termination; (b) this matter will revert to the status that existed before execution of the Settlement Agreement; and (c) no term or draft of the Settlement Agreement or any part of the Parties' settlement discussions, negotiations or documentation (including any briefs filed in support of preliminary or final approval of the settlement) shall (i) be admissible into evidence for any purpose in this Action or in any other action or proceeding other than as may be necessary to enforce the terms of the Settlement Agreement that survive termination, (ii) be deemed an admission or concession by any Party regarding the validity of any of the Released Claims or the propriety of certifying any class against Air Methods, or (iii) be deemed an admission or concession by any Party regarding the truth or falsity of any facts alleged in the Action or the availability or lack of availability of any defense to the Released Claims.

16. The Court reserves the right to adjourn the date of the Final Approval Hearing without further notice to the potential Settlement Class Members and retains jurisdiction to consider all further requests or matters arising out of or connected with the proposed Settlement. The Court may approve the Settlement, with such modification as may be agreed to by the Parties or as ordered by the Court, without further notice to the Settlement Class.

IT IS SO ORDERED.

/s/ _____
The Honorable N. Reid Neureiter
United States Magistrate Judge

EXHIBIT 2

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

RACHEL WILLIAMS AND GENOVEVA)
MILTON, on behalf of themselves and all)
others similarly situated,)
)
Plaintiffs,)
)
v.)
)
AIR METHODS, LLC,)
)
Defendant)
)
)
)

Case No. 1:24-CV-00642-NRN

**DECLARATION OF DAVID K. LIETZ IN SUPPORT OF
PLAINTIFFS’ UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT AND MEMORANDUM IN SUPPORT**

I, David K. Lietz, being competent to testify, make the following declaration:

1. I am currently a senior partner of the law firm of Milberg Coleman Bryson Phillips Grossman, PLLC (“Milberg”). I am one of the attorneys for Plaintiffs. I submit this declaration in support of Plaintiffs’ Unopposed Motion for Preliminary Approval of Class Action Settlement, and in support of my appointment (along with my law partner Gary M. Klinger) as Class Counsel. Except as otherwise noted, I have personal knowledge of the facts set forth in this declaration and could testify competently to them if called upon to do so.

2. I am a 1991 graduate of Georgetown University Law Center. I have been licensed to practice law in the District of Columbia since 1991, am a member of the bars of numerous federal district and appellate courts, and have decades of litigation and class action experience.

3. I have represented and am currently representing plaintiffs in more than 100 class action lawsuits in state and federal courts throughout the United States. Both I and my firm carry on a national and international class action law practice. With respect to data privacy cases, I am currently litigating more than 100 cases across the country involving violations of privacy violations, data breaches, and cyberattacks.

4. Over the past four years, I have been appointed class counsel in not less than 60 data breach or data privacy cases that have been either preliminarily or finally approved by federal and state courts across the country, including multiple cases before this Court:

- *Kenney et al. v. Centerstone of America, Inc.*, Case No. 3:20-cv-01007 (M.D. Tenn.) (appointed co-class counsel in data breach class action settlement involving over 63,000 class members; final approval granted Aug. 2021);
- *Mowery et al. v. Saint Francis Healthcare System*, Case No. 1:20-cv-00013-SRC (E.D. Mo.) (appointed class counsel; final approval granted Dec. 2020);
- *Chatelain et al. v. C, L and W PLLC d/b/a Affordacare Urgent Care Clinics*, Case No. 50742-A (42nd Dist. Ct., Taylor Cnty., Tex.) (appointed class counsel; settlement valued at over \$7 million; final approval granted Feb. 2021);
- *Jackson-Battle v. Navicent Health, Inc.*, Case No. 2020-CV-072287 (Super. Ct. of Bibb Cnty., Georgia) (appointed class counsel in data breach case involving 360,000 patients; final approval granted Aug. 2021);
- *Bailey v. Grays Harbor County Public Hospital District et al.*, Case No. 20-2-00217-14 (Super. Ct, Grays Harbor Cnty., Wash.) (appointed class counsel in hospital data breach class action involving approximately 88,000 people; final approval granted Sept. 2020);
- *Chacon v. Nebraska Medicine*, Case No. 8:21-cv-00070-RFR-CRZ (D. Neb.) (appointed class counsel in data breach settlement, final approval granted Sept. 2021);
- *Richardson v. Overlake Hospital Medical Center et al.*, Case No. 20-2-07460-8 SEA (Super. Ct., King Cnty, Wash.) (appointed class counsel in data breach case, final approval granted Sept. 2021);

- *Martinez et al. v. NCH Healthcare System, Inc.*, Case No. 2020-CA-000996 (12th Jud. Cir. Ct, Collier Cnty, Fla.) (appointed settlement class counsel; final approval granted Oct. 2021);
- *Carr et al. v. Beaumont Health et al.*, Case No. 2020-181002-NZ (Cir. Ct., Oakland Cnty, Mich.) (appointed co-class counsel in data breach case involving 112,000 people; final approval granted Oct. 2021);
- *Klemm et al. v. Maryland Health Enterprises Inc.*, Case No. C-03-CV-20-022899 (Cir. Ct., Baltimore Cnty., Md) (appointed class counsel; final approval granted Nov. 2021);
- *Cece et al. v. St. Mary's Health Care System, Inc. et al.*, Case No. SU20CV0500 (Super. Ct, Athens-Clarke Cnty, Georgia) (appointed Settlement Class Counsel in data breach case involving 55,652 people; final approval granted Apr. 2022);
- *Powers, Sanger et al v. Filters Fast LLC*, Case 3:20-cv-00982-jdp (appointed co-lead settlement class counsel; final approval granted July 2022);
- *Garcia v. Home Medical Equipment Specialists, LLC*, Case No. D-202-cv-2021-06846 (appointed class counsel; final approval granted June 2022);
- *Baldwin et al. v. National Western life Insurance Company*, Case No. 2:21-cv-04066 (W.D. Mo.) (appointed co-class counsel; final approval granted June 2022);
- *Hashemi, et. al. v. Bosley, Inc.*, Case No. 21-cv-00946-PSG (C.D. Cal.) (appointed co-class counsel; final approval granted Nov. 2022);
- *Paras et al. v. Dental Care Alliance*, Civil Action No. 22EV000181 (State Court of Fulton County, Georgia) (appointed co-class counsel; final approval granted Sept. 2022);
- *James v. CohnReznick LLP*, Case No. 1:21-cv-06544 (S.D.N.Y.), (appointed as co-class counsel; final approval granted Sept. 2022);
- *Purvis, et al v. Aveanna Healthcare, LLC*, Case No. 1:20-cv-02277-LMM (N.D. Ga.) (appointed class counsel; final approval granted Oct. 2022);
- *Kolar v. CSI Financial Services LLC dba ClearBalance*, Case No. 37-2021-00030426-CU-NP-CTL (CA Super. Ct., San Diego Cnty) (appointed co-lead class counsel, final approval granted Jan. 2023);
- *In re: California Pizza Kitchen Data Breach Litigation*, Case No.: 8:21-cv-01928-DOC-KES (C.D. Cal.) (appointed settlement class counsel; final approval granted Feb. 2023);

- *Snyder v. Urology Center of Colorado, P.C.*, Case No. 2021CV33707 (2nd Dist. Ct., Denver Cnty, Colorado) (appointed settlement class counsel; final approval granted Oct. 2022);
- *Steen v. The New London Hospital Association, Inc.*, Case No. 217-2021-CV-00281 (Merrimack Super. Ct., New Hampshire) (appointed class counsel; final approval granted Jan. 2023);
- *Gonshorowski v. Spencer Gifts LLC*, Docket Number ATL-L-000311-22 (Super. Ct. of New Jersey, Law Division, Atlantic Cnty) (appointed class counsel; final approval granted Sept. 12, 2022);
- *Nelson et. al v. Bansley & Kiener, LLP*, Civil Action No. 2021CH06274 (Ill. 1st Jud. Cir. Ct., Cook Cnty) (appointed class counsel; final approval granted Nov. 2022);
- *Henderson et al. v. San Juan Regional Medical Center*, Case No. D-1116-CV-2021-01043 (11th Jud. Dist. Court, San Juan Cnty., NM) (appointed class counsel; final approval granted Mar. 2023);
- *Cathy Shedd v. Sturdy Memorial Hospital, Inc.*, Civ. Action No: 2173 CV 00498 (Mass. Sup. Ct. Dept.) (appointed class counsel; final approval granted Feb. 2023);
- *Pagan et al. v. Faneuil, Inc.*, Case No. 3:22-cv-00297 (E.D. Va.) (appointed class counsel; final approval granted Feb. 2023);
- *Hawkins et al. v. Startek, Inc.*, Case No. 1:22-cv-00258-RMR-NRN (D. Colo.) (appointed class counsel; final approval granted Apr. 2023);
- *McManus v. Gerald O. Dry, P.A.*, Case No. 22 CVS 001776 (N.C. Super. Ct., Cabarrus Cnty.) (appointed settlement class counsel; final approval granted Mar. 2023);
- *McHenry v. Advent Health Partners, Inc.*, Case No. 3:22-cv-00287 (M.D.T.N.) (appointed class counsel; final approval granted Apr. 2023),
- *Lopez v. San Andreas Regional Center*, Case No. 21CV386748 (CA Sup. Ct., Santa Clara Cnty.) (appointed settlement class counsel; final approval granted Sept. 2023);
- *Charlie, et al. v. Rehoboth McKinley Christian Health Care Services*, Case No. 21-00652-SCY-KK (D.N.M.) (appointed class counsel, final approval granted May 2023);
- *Arbuthnot v. Acuity – CHS, LLC*, Case No. 6:22-cv-658-PGB-DCI (M.D. Fla.) (appointed settlement class counsel; final approval granted Aug. 2023);

- *Bergeson v. Virginia Mason Medical Center*, Case No. 22-2-09089-8 SEA (Wash. Super. Ct., King Cnty.) (appointed settlement class counsel; final approval granted Aug. 2023);
- *Reynolds et al. v. Marymount Manhattan College*, Case No. 1:22-CV-06846-LGS (S.D.N.Y.) (appointed settlement class counsel; final approval granted Oct. 2023);
- *Griffey et al. v. Magellan Health, Inc.*, Case No. CV-20-01282-PHX-MTL (D. Ariz.) (appointed settlement class counsel; final approval granted Feb. 9, 2024);
- *Connor Rowe v. Sterling Valley Systems, Inc. d/b/a/ Inntopia*, Case No.: 22-CV-04081 (Vt. Super. Ct., Civil Division, Lamoille Unit) (appointed settlement class counsel; final approval granted Jan. 9, 2024);
- *Jones, et al v. P2ES Holdings, LLC*, Case No. 23-cv-00408-GPG-MEH (D. Colo.) (Appointed co-class counsel; final approval granted April 16, 2024);
- *Guarino v. Radius Financial Group, Inc.*, Civ. Action No: 2283 CV 00196 (Mass. Sup. Ct. Dept., Plymouth Cnty.) (appointed class counsel; final approval granted Feb. 28, 2024);
- *Foster et al. v. Lower, LLC*, Civil Action No. 1:22-CV-1581 (GLR) (D. Md.) (appointed class counsel; final approval granted Dec. 1, 2023), and;
- *Lamie et. al v. LendingTree, LLC*, Case No. 3:22-cv-0037 (W.D.N.C.) (appointed class counsel; final approval granted Feb. 27, 2024);
- *Kooner, et al v. Oral Surgeons of Virginia, PLLC*, Case No. 1:23-cv-01199 (E.D. Va.) (appointed Co-Lead Counsel Dec. 1, 2023);
- *Tarrant v. Southland Holdings LLC*, Cause No. 067-333679-22 (67th Judicial Dist. Ct. of Tex., Tarrant Cnty.) (appointed class counsel; final approval granted April 19, 2024);
- *May, et al v. Five Guys Enterprises, LLC*, Case No. 1:23-cv-00029 (E.D. Va.) (appointed class counsel; final approval granted July 12, 2024);
- *Martinez, et al v. Presbyterian Healthcare Services*, Case No. D-202-CV-2020-01578 (2d Jud. Ct. of N.M., Cnty of Bernalillo) (appointed class counsel; final approval granted June 18, 2024);
- *Medina v. Albertsons Companies, Inc.*, Case No. 1:23-cv-00480-MN (D. Del.) (appointed class counsel; final approval granted April 26, 2024);

- *Prevost, et al v. Roper St. Francis Healthcare*, C.A. No. 2021-CP-10-01754 (9th Jud. Cir. Ct. of S.C., Ct. of Common Pleas) (Appointed co-class counsel; final approval granted May 2, 2024);
- *Williams v. Monarch*, Case No. 23CVS-105, (N.C. Sup. Ct., Stanly Cnty.) (Appointed class counsel; preliminary approval granted Jan. 17, 2024);
- *Viruet v. Comm. Surgical Supply, Inc.*, Case No. OCN L-001215-23 (N.J. Sup. Ct., Ocean Cnty.) (Appointed co-class counsel; final approval granted Nov. 17, 2023)
- *Kondo, et al v. Creative Services, Inc.*, Case No. 1:22-cv-10438-DJC (D. Mass.) (Appointed class counsel; final approval granted Sept. 7, 2023);
- *Stark, et al v. Acuity Brands, Inc.*, Case No. 23EV006179H (Fulton Cnty. State Court of Ga.) (appointed class counsel; final approval granted May 21, 2024);
- *Keown, et al v. Int’l Assoc. of Sheet Metal Air Rail Transportation Workers*, Case No. 1:23-cv-03570-CRC (D.D.C.) (Appointed class counsel);
- *Mendoza, et al v. Crystal Bay Casino, LLC*, Case No. 3:23-cv-00092-MMD-CLB (D. Nev.) (Appointed class counsel) (preliminary approval granted Feb. 5, 2024);
- *Oche v. National Math & Science Initiative*, Index No. 510959/2023 (N.Y. Supr. Ct, Kings Cnty.) (Appointed class counsel; final approval granted June 12, 2024);
- *Marshall v. Lamoille Health Partners, Inc.*, Case No. 2:22-cv-00166, (D. Vt.) (Appointed class counsel; preliminary approval granted Feb. 20, 2024);
- *Amaral v. Stanley Street Treatment and Resources, Inc.*, Case No. 2373CV00075 (Bristol Sup. Ct. of Mass.) (Appointed class counsel; preliminary approval granted Mar. 14, 2024);
- *Mooney, et al v. Ashford, Inc.*, Case No. 3:24-cv-00279-K (N.D. Tex.) (Appointed class counsel);
- *Cariello, et al v. NSC Holdings, LLC*, Case No. 1:23-cv-05499-JPB (N.D. Ga.) (Appointed class counsel);
- *Granado, et al v. Sandridge Energy, Inc.*, Case No. 5:22-cv-00516-AMG (W.D. Okla.) (Appointed class counsel; preliminary approval granted Apr. 9, 2024);
- *Sanguinetti et al. v. Nevada Restaurant Services, Inc.*, Case No. 2:21-cv-01768-RFB-DIA (appointed Class Counsel, preliminary approval May 28, 2024);
- *Phillips, et al v. Precision Tune Auto Care, Inc.*, Case No. 1:24-cv-00502-MSN-LRV (E.D. Va.) (Appointed Co-Lead Interim class counsel);

- *Brent et al. v. Advanced Medical Management, LLC et al.*, Civil Action No. 1:23-cv-3254-JKB (D. Md.)(appointed Class Counsel, preliminary approval June 25, 2024).

5. I am also lead or co-lead counsel on the following cases that are on the cutting edge of Article III federal court jurisdiction in data breach litigation. Most recently, I briefed and argued *Webb v. Injured Workers Pharmacy, LLC*, 72 F.4th 365 (1st Cir. 2023), where the U.S. Court of Appeals for the First Circuit articulated important principles of Article III standing in data breach cases after the U.S. Supreme Court's decision in *Ramirez v. TransUnion*. Other noteworthy data breach decisions include *Purvis v. Aveanna Healthcare, LLC*, 563 F. Supp. 3d 1360 (N.D. Ga. 2021); *Charlie v. Rehoboth McKinley Christian Healthcare Services*, Civ. No. 21-652 SCY/KK, 2022 WL 1078553 (D.N.M. April 11, 2022); *Baldwin v. Nat'l W. Life Ins. Co.*, No. 2:21-CV-04066-WJE, 2021 WL 4206736, at *1 (W.D. Mo. Sept. 15, 2021) and *McCreary v. Filters Fast LLC*, No. 3:20-CV-595-FDW-DCK, 2021 WL 3044228 (W.D.N.C. July 19, 2021).

6. For my substantial efforts in advancing the state of the law in data breach and cybersecurity litigation, in April 2022 I was named to Law360's 2022 Cybersecurity & Privacy Editorial Board. This 12-person editorial board includes some of the most accomplished attorneys in the country in the cybersecurity and data breach legal field, and it was a high honor for me to be included on this board.

7. I frequently give public presentations about data privacy and data breach litigation, including most recently at the 8th Annual Class Action Money & Ethics Conference (May 6, 2024 in New York City), the Harris-Martin Publishing Conference in San Francisco in July 2023, a Strafford Publishing CLE panel discussion on my *Webb v. Injured Workers Pharmacy* case in October 2023, and a presentation at the North Carolina Bar Association 2023 Privacy & Data Security Section Annual Program in October 2023.

8. I have been appointed as class counsel in other consumer class action cases and have tried consumer class action cases to verdict before a jury, most recently in *Baez v. LTD Financial Services*, Case No: 6:15-cv-1043-Orl-40TBS (MD Fla.).

9. My experience with class actions also includes a leadership role in a Massachusetts Walmart wage abuse class action, national HMO litigation, the Buspironone MDL, and Louisiana Norplant litigation.

10. In addition to my class action experience, I have substantial appellate experience, successfully briefing and arguing multiple cases before a number of federal appellate courts, including *Home Depot v. Jackson* at the U.S. Court of Appeals for the Fourth Circuit, and served as part of the successful brief-writing and oral advocacy team for *Home Depot v. Jackson*, 139 S. Ct. 1743, 1744, 204 L. Ed. 2d 34 (2019) at the United States Supreme Court.

11. Prior to concentrating my practice on consumer class action litigation, I litigated critical injury and wrongful death actions arising from commercial incidents, such as tractor trailer incidents, industrial explosions, a subway collision, and commercial airplane crashes. A representative list of my critical injury and wrongful death cases include:

- Represented the family of the deceased conductor of the Washington Metropolitan Area Transit Authority subway train that collided with another Metro train in 2009.
- Represented the family of a fatality victim of the 2006 Greyhound bus crash near Elizabethtown, New York.
- Represented six victims (four deceased, two injured) of a massive fog related pileup on the Pennsylvania Turnpike in 2003.
- Represented three victims (two deceased, one injured) of the 2002 Interstate 40 Bridge Collapse, where a tugboat and barge hit an interstate highway bridge near Webbers Falls, Oklahoma and caused several vehicles to plunge into the Arkansas River.
- Represented the family of one victim of the 2000 Alaska Airlines Flight 261 crash, where an MD-83 with a cracked jackscrew nosedived into the water off Point Mugu, California.

- Represented the victims (one deceased, one critically injured) of a 2000 incident where a tractor trailer rear ended a line of stopped traffic near Hopkinsville, Kentucky.
- Represented a critically burned victim of the 1998 explosion at the State Line Energy plant in Hammond, Indiana, where a massive coal dust explosion ripped through the power plant, causing power shortages all over the city of Chicago, Illinois.
- Represented the families of four victims of the 1996 ValuJet Flight 592 crash, where a DC-9 developed a cargo hold fire and crashed into the Everglades near Miami, Florida.
- Represented the family of a victim of a 1994 crane collapse in Laughlin, Nevada, when a mobile truck crane toppled across the parking lot of a casino.

12. I negotiated several million+ dollar settlements, served as lead counsel in multiple civil actions, tried a number of cases to verdict in both jury and bench trials, and argued cases before federal district and appeals courts, and numerous state courts. I have lifetime verdicts and settlements in excess of \$100 million, and consistently achieved settlements in the highest quartile of tort and mass tort cases.

13. I was first awarded the prestigious “AV” rating from Martindale-Hubbell in 1998, and have maintained that rating (and the concomitant listing in the Bar Register of Preeminent Lawyers) ever since.

14. In addition to my personal qualifications, I bring the support and resources of Milberg to this case on behalf of the putative class. Milberg pioneered federal class action litigation and is widely recognized as a leader in defending the rights of victims of corporate and other large-scale wrongdoing, repeatedly taking the lead in landmark cases that have set groundbreaking legal precedents, prompting changes in corporate governance, and recovering over \$50 billion in verdicts and settlements. A brief firm biography is attached to this declaration as **Exhibit A**.

15. Milberg is and has been one of the nation’s most prominent class action law firms since its founding in 1965. Milberg continues to break new ground in cybersecurity and data

privacy cases, including taking a co-lead counsel role in the high-profile *In re: Blackbaud, Inc. Customer Data Security Breach Litigation* (MDL 2972) that has established pleading standards and Art. III standing guidelines for data breach cases. Milberg has and is litigating multiple class actions against other companies within the same industry as Creative Services.

16. My experience and Milberg's data breach experience compare favorably with that of any law firm in the country. The firm has ample resources (both financial and personnel, with over 100+ attorneys at the firm) to fully and adequately represent the interests of the proposed class here.

17. I am, and my firm is, fully aware of the financial and human resources that will be required to bring this case to a successful conclusion and the Court should have no reservations that my firm has and is willing to commit those resources for the benefit of the Plaintiff's class. I personally have never used third-party funding on any data breach case, nor failed to meet my assessment obligations in any case. Neither I nor Milberg intends to use any third-party litigation funding for this case.

18. I, and the Milberg law firm, are willing and able to expend the resources necessary to ensure the vigorous prosecution of the claims asserted by the Plaintiffs in these cases. My firm is well capitalized and has years of experience prosecuting and self-funding complex class action litigation, including actions against some of the largest companies in the world. My firm has advanced significant resources to fund expenses in several of its cases, demonstrating a commitment to providing the resources and staffing needed to successfully prosecute class actions. Milberg and I are also willing to advance all costs to prosecute this action and see it through completion.

19. My experience coupled with my firms' resources, will allow me to skillfully litigate this type of case in the best interests of Plaintiff and the putative class. Not only does my law firm have the resources to effectively prosecute this case, but it is also committed to utilizing them to do so.

20. Milberg is a well-established law firm that employs numerous attorneys who represent plaintiffs in complex and class action litigation. Milberg can and will devote the necessary financial resources to this case.

21. I am also personally familiar with the qualifications of my proposed co-Class Counsel, Gary M. Klinger. Mr. Klinger is also a senior partner at Milberg, a 2010 law school graduate of the University of Illinois at Urbana-Champaign, and has been appointed class counsel in over 100 data breach and/or data privacy cases (the majority of which are completely separate cases from the ones in which I was appointed). A list of Mr. Klinger's appointments is attached hereto as **Exhibit B**.

22. Mr. Klinger was recognized as one of the 2024 Lawdragon 500 Leading Litigators in America, and was recognized in 2024 by Chambers as one of the leading attorneys in the United States for Privacy and Data Security Litigation.

23. My work in this matter, and the work of others in my law firm involved investigating the cause and effects of the Air Methods LLC ("Air Methods") Security Incident, interviewing potential clients, evaluating potential class representatives, contributing to the evaluation of the merits of the case before filing the initial Complaint on behalf of Ms. Williams; conducting legal research; coordinating with the other Plaintiff's counsel to file a separate action arising from this Security Incident on behalf of Ms. Milton; drafting and filing the amended complaint; conducting informal discovery regarding the Security Incident; engaging in arms-length

settlement negotiations with defendant's counsel over the course of several weeks; drafting the settlement agreement, well-crafted notices of settlement and an easy to understand claim form, the initial Unopposed Motion for Preliminary Approval; communicating with defense counsel, and; updating and handling questions from our class representatives. I conferred with my colleagues about strategy and case status while being mindful to avoid duplicative efforts within my firm.

24. Proposed Class Counsel have conducted all of the work necessary to prosecute this litigation thus far, and we stand ready, willing, and able to continue to devote the substantial effort and resources (including the advancement of costs) necessary for advancing the claims of Plaintiffs and the proposed class.

LITIGATION BACKGROUND

I. Procedural History

25. On March 8, 2024, Plaintiff Rachel Williams filed the first complaint against Defendant in this Court for claims arising from the Security Incident. On March 15, 2024, Plaintiff Genoveva Milton filed a second related Complaint in this Court. On May 29, 2023, Plaintiff Milton dismissed her separate action, and agreed to be added as an additional plaintiff to the Williams action. Also on May 29, 2024, the Plaintiffs filed their Amended Complaint in the Williams action. ECF No, 14.

26. Subsequently, on July 11, 2024, Plaintiffs filed their Second Amended Complaint ("SAC"), correcting by stipulation a misnomer of the Defendant (which had changed its name and corporate structure to an LLC in 2023). ECF Nos. 17 and 18. In their SAC, Plaintiffs alleged individually and on behalf of a putative class that, as a direct result of the Security Incident, Plaintiffs and Class Members suffered numerous injuries and would likely suffer additional harm in the future.

II. Informal Discovery and Settlement Discussions

27. Soon after the two initial complaints were filed, the Parties began discussing the prospect for early resolution. These talks were spurred on by Defendant producing informal discovery that addressed the manner and mechanism of the Security Incident (i.e. a stolen laptop, as opposed to a cybersecurity breach perpetrated by a cybercriminal), the number of impacted individuals who received direct notice of this Security Incident, and Defendant's notice program and incident response.

28. Prior to resolving the matter, the Parties engaged in a considerable amount of this informal discovery, spanning several weeks.

29. Ultimately, after hard-fought, arms-length negotiations, the Parties were able to reach a resolution. Defendant was represented in these negotiations by highly competent counsel from Baker Hostetler, one of the leading data privacy defense law firms in the country. While these negotiations were always professional and collegial, there is no doubt that they were adversarial, as counsel for the respective Parties are frequent adversaries in data privacy cases across the country.

30. In the weeks that followed, the Parties continued negotiating the particular terms of the Settlement Agreement and associated exhibits. The Settlement Agreement, including its various exhibits, was finalized and signed on July 12-15, 2024.

31. Following a competitive bidding process, which included soliciting cost proposals from different settlement administrators, the Parties agreed that Simpluris would serve as Settlement Administrator. Simpluris is a well-known settlement administration firm with a history of successfully administering many class action settlements, including data breach settlements. Simpluris' bid of \$38,940 was the lowest bid, and their proposal for administration was deemed to be the most appropriate for this case by counsel for Parties.

COUNSEL’S QUALIFIED RECOMMENDATION

32. Our collective years of experience representing individuals in complex class actions—including data breach actions—informed Plaintiffs’ settlement position, and the needs of Plaintiffs and the proposed Settlement Class. While we believe in the merits of the claims brought in this case, we are also aware that a successful outcome is uncertain and would be achieved, if at all, only after prolonged, arduous litigation with the attendant risk of drawn-out appeals and the potential for no recovery at all. Based upon our collective substantial experience, it is our opinion that the proposed settlement of this matter provides significant relief to the members of the Settlement Class and warrants the Court’s preliminary approval. The settlement is well within the range of other data breach settlements in the relief that it provides.

33. The Settlement requires Air Methods to establish a non-reversionary common fund of \$240,000 dollars. The Settlement’s terms are designed to address the alleged potential harms caused by the Security Incident by providing cash compensation to the persons whose information was impacted by the Security Incident and reimbursing their economic losses. Class Members may also claim two years of state of the art identity theft protection and credit monitoring.

34. This result is particularly favorable given the risks of continued litigation. Plaintiffs faced serious risks prevailing on the merits, including proving injury and causation, as well as risk at class certification and at trial, and surviving appeal. A settlement today not only avoids the risks of continued litigation, but it also provides benefits to the Settlement Class Members now as opposed to after years of risky litigation.

35. The Settlement’s benefits unquestionably provide a favorable result to the Settlement Class Members, placing the Settlement well within the range of possible final approval and satisfying the requirements for preliminary approval under applicable law. Therefore, the Court should grant preliminary approval.

36. Additionally, the Notice plan contemplated by the Settlement is designed to be the best practicable and to meet all the criteria set forth by the Manual for Complex Litigation and is consistent with other class action notice programs that have been approved by various courts for similarly situated matters.

37. Specifically, it provides for direct and individual notice to be provided to all Settlement Class Members via U.S. mail, based off of the contact information provided by the Settlement Class Members when they transacted with Air Methods. In addition to the individual direct notice provided, the Claims Administrator will establish and maintain a dedicated settlement website that will be updated throughout the claims period with the Long Form Notice and Claim Form approved by the Court, as well as this Settlement Agreement and other relevant court documents. The Administrator will also maintain a toll-free telephone line for Settlement Class Members to obtain additional information.

38. The Notices being provided to Settlement Class Members are also clear and straightforward, defining the class and setting forth the options available to Settlement Class Members under the Settlement Agreement, as well as the deadlines for taking action. The Notices also describe the essential terms of the settlement; disclose the requested service award for the Class Representatives as well as the amount that proposed Settlement Class Counsel intends to seek in fees and costs; explain procedures for making claims, objections, or requesting exclusion; and describe the date, time, and place of the Final Fairness Hearing.

39. In sum, it is my opinion that the Settlement is fair, reasonable, and adequate considering the significant benefits made available to the Settlement Class, as well as the risks and delays attendant to further protracted litigation that can be avoided through this Settlement. This

view is informed by proposed Class Counsel's decades of work and experience successfully litigating complex actions, including dozens of data breach class actions.

40. I represent on behalf of the Plaintiffs that there are no agreements related to the Settlement other than those reflected in the Settlement Agreement itself and an agreement with Simpluris to perform notice and settlement administration services in the event the Settlement is preliminarily approved by the Court.

41. Plaintiffs, as proposed Settlement Class Representatives, have also demonstrated their adequacy to serve in such a capacity by (i) selecting well-qualified Class Counsel; (ii) producing information and documents to Settlement Class Counsel to permit the investigation and development of their respective complaints; (iii) being available as needed throughout the litigation and negotiation of this settlement; and (iv) monitoring the litigation. Plaintiffs do not have any interests antagonistic to other class members. Plaintiffs were not promised a service award, nor did they condition their representation on the expectation of a service award

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury of the United States of America that the foregoing is true and correct.

Executed on July 13, 2024,

/s/ David K. Lietz
David K. Lietz (admitted *pro hac vice*)
**MILBERG COLEMAN BRYSON
PHILLIPS GROSSMAN, LLC**
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Counsel for Plaintiffs

EXHIBIT A



FIRM RESUME



Milberg Coleman Bryson Phillips Grossman (“Milberg”) is an AV-rated international law firm with more than 100 attorneys and offices across the United States, the European Union, and South America. Combining decades of experience, Milberg was established through the merger of Milberg Phillips Grossman LLP, Sanders Phillips Grossman LLC, Greg Coleman Law PC, and Whitfield Bryson LLP.

Milberg prides itself on providing thoughtful and knowledgeable legal services to clients worldwide across multiple practice areas. The firm represents plaintiffs in the areas of antitrust, securities, financial fraud, consumer protection, automobile emissions claims, defective drugs and devices, environmental litigation, financial and insurance litigation, and cyber law and security.

For over 50 years, Milberg and its affiliates have been protecting victims’ rights. We have recovered over \$50 billion for our clients. Our attorneys possess a renowned depth of legal expertise, employ the highest ethical and legal standards, and pride ourselves on providing stellar service to our clients. We have repeatedly been recognized as leaders in the plaintiffs’ bar and appointed to numerous leadership roles in prominent national mass torts and class actions.

Milberg challenges corporate wrongdoing through class action, mass tort, consumer and shareholder right services, both domestically and globally.

In the United States, Milberg currently holds more than 100 court-appointed full- and co-leadership positions in state and federal courts across the country. Our firm has offices in California, Chicago, Florida, Georgia, Illinois, Kentucky, Louisiana, Mississippi, New Jersey, New York, North Carolina, South Carolina, Tennessee, Washington, Washington D.C., and Puerto Rico. Milberg’s commitment to its clients reaches beyond the United States, litigating antitrust, securities, and consumer fraud actions in Europe and South America, with offices located in the United Kingdom, and the Netherlands. Milberg prides itself on providing excellent service worldwide.

The firm’s lawyers have been regularly recognized as leaders in the plaintiffs’ bar by the National Law Journal, Legal 500, Chambers USA, Time Magazine, Lawdragon, and Super Lawyers, among others.

“A powerhouse that compelled miscreant and recalcitrant businesses to pay billions of dollars to aggrieved shareholders and customers.”
- THE NEW YORK TIMES

PRACTICE AREAS

SECURITIES FRAUD

Milberg pioneered the use of class action lawsuits to litigate claims involving investment products, securities, and the banking industry. Fifty years ago, the firm set the standard for case theories, organization, discovery, methods of settlement, and amounts recovered for clients. Milberg remains among the most influential securities litigators in the United States and internationally.

Milberg and its attorneys were appointed Lead Counsel and Co-Lead Counsel in hundreds of federal, state, and multidistrict litigation cases throughout its history.

ANTITRUST & COMPETITION LAW

For over fifty years, Milberg's Antitrust Practice Group has prosecuted complex antitrust class actions against defendants in the healthcare, technology, agriculture, and manufacturing industries engaged in price-fixing, monopolization and other violations of antitrust law and trade restraints.

FINANCIAL LITIGATION

For over fifty years, Milberg's Antitrust Practice Group has prosecuted complex antitrust class actions against defendants in the healthcare, technology, agriculture, and manufacturing industries engaged in price-fixing, monopolization and other violations of antitrust law and trade restraints.

CONSUMER PROTECTION

Milberg's Consumer Protection Practice Group focuses on improving product safety and protecting those who have fallen victim to deceptive marketing and advertising of goods and services and/or purchased defective products. Milberg attorneys have served as Lead Counsel and Co-Lead Counsel in hundreds of federal, state, and multidistrict litigation cases alleging the sale of defective products, improper marketing of products, and violations of consumer protection statutes.

DANGEROUS DRUGS & DEVICES

Milberg is a nationally renowned firm in mass torts, fighting some of the largest, wealthiest, and most influential pharmaceutical and device companies and corporate entities in the world. Our experienced team of attorneys has led or co-led numerous multidistrict litigations of defective drugs and medical devices.

EMPLOYMENT & CIVIL RIGHTS

Milberg's Employment & Civil Rights attorneys focus on class actions and individual cases nationwide arising from discriminatory banking and housing practices, unpaid wages and sales commissions, improperly managed retirement benefits, workplace discrimination, and wrongful termination.

ENVIRONMENTAL LITIGATION & TOXIC TORTS

Milberg's Environmental Litigation & Toxic Torts Practice Group focuses on representing clients in mass torts, class actions, multi-district litigation, regulatory enforcement, citizen suits, and other complex environmental and toxic tort matters. Milberg and its attorneys have held leadership roles in all facets of litigation in coordinated proceedings, with a particular focus on developing the building blocks to establish general causation, which is often the most difficult obstacle in an environmental or toxic tort case.

STATE & LOCAL GOVERNMENTS

Milberg attorneys are dedicated to defending the Constitutional and statutory rights of individuals and businesses that are subjected to unlawful government exactions and fees by state and local governments or bodies.

INFORMATION TECHNOLOGY

Milberg is a leader in the fields of cyber security, data breach litigation, and biometric data collection, litigating on behalf of clients – both large and small – to change data security practices so that large corporations respect and safeguard consumers' personal data.

APPELLATE

Consisting of former appellate judges, experienced appellate advocates, and former law clerks who understand how best to present compelling arguments to judges on appeal and secure justice for our clients beyond the trial courts, Milberg's Appellate Practice Group boasts an impressive record of success on appeal in both state and federal courts.

LEADERSHIP ROLES

In re: Google Play Consumer Antitrust Litigation
In re: Elmiron (Pentosan Polysulfate Sodium) Products Liability Litigation
In re: Johnson & Johnson Talcum Powder Products Marketing, Sales Practices & Products Liability Litigation
In re: Blackbaud Inc., Customer Data Breach Litigation
In re: Paragard IUD Products Liability Litigation
In re: Seresto Flea & Tick Collar, Marketing Sales Practices & Product Liability Litigation
In re: All-Clad Metalcrafters, LLC, Cookware Marketing and Sales Practices Litigation
In re: Allergan Biocell Textured Breast Implant Products Liability Litigation
In re: Zicam Cold Remedy Marketing, Sales Practices and Products Liability Litigation
In re: Guidant Corp. Implantable Defibrillators Product Liability Litigation
In re: Ortho Evra Products Liability Litigation
In re: Yasmin and YAZ (Drospirenone) Marketing, Sales Practices and Products Liability Litigation
In re: Kugel Mesh Hernia Patch Products Liability Litigation
In re: Medtronic, Inc. Sprint Fidelis Leads Products Liability Litigation
In re: Stand 'N Seal Products Liability Litigation
In re: Chantix (Varenicline) Products Liability Litigation
In re: Fosamax (alendronate Sodium) Products Liability Litigation
In re: Benicar (Olmesartan) Products Liability Litigation
In re: Onglyza (Saxagliptin) & Kombiglyze Xr (Saxagliptin & Metformin) Products Liability Litigation
In re: Risperdal and Invega Product Liability Cases
In re: Mirena IUS Levonorgestrel-Related Products Liability Litigation
In re: Incretin-based Therapies Product Liability Litigation
In re: Reglan/Metoclopramide
In re: Levaquin Products Liability Litigation
In re: Zimmer Nexgen Knee Implant Products Liability Litigation
In re: Fresenius Granuflo/Naturalyte Dialysate Products Liability Litigation
In re: Propecia (Finasteride) Products Liability Litigation
In re: Transvaginal Mesh (In Re C. R. Bard, Inc., Pelvic Repair System Products Liability Litigation; In Re Ethicon, Inc., Pelvic Repair System Products Liability Litigation; In Re Boston Scientific, Inc., Pelvic Repair System Products Liability; In Re American Medical Systems, Pelvic Repair System Products Liability, and others)
In re: Fluoroquinolone Product Liability Litigation
In re: Depuy Orthopaedics, Inc., Pinnacle Hip Implant Products Liability Litigation
In re: Recalled Abbott Infant Formula Products Liability Litigation
Home Depot, U.S.A., Inc. v. Jackson
Webb v. Injured Workers Pharmacy, LLC

NOTABLE RECOVERIES

\$4 Billion Settlement

In re: Prudential Insurance Co. Sales Practice Litigation

\$3.2 Billion Settlement

In re: Tyco International Ltd., Securities Litigation

\$1.14 Billion Settlement

In Re: Nortel Networks Corp. Securities Litigation

\$1 Billion-plus Trial Verdict

Vivendi Universal, S.A. Securities Litigation

\$1 Billion Settlement

NASDAQ Market-Makers Antitrust Litigation

\$1 Billion Settlement

W.R. Grace & Co.

\$1 Billion-plus Settlement

Merck & Co., Inc. Securities Litigation

\$775 Million Settlement

Washington Public Power Supply System Securities Litigation

\$586 Million Settlement

In re: Initial Public Offering Securities Litigation

LOCATIONS

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1311 Avenida Juan Ponce de León
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280 South Beverly Drive, Penthouse
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1420 Fifth Ave, Suite 2200
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Woodinville, Washington 98072

WASHINGTON, D.C.

5335 Wisconsin Avenue NW, Suite 440
Washington, D.C. 20015

NETHERLANDS

UNITED KINGDOM



EXHIBIT B

GARY M. KLINGER LIST OF APPOINTMENTS IN DATA BREACH AND DATA PRIVACY CASES

1. *Kenney et al. v. Centerstone of America, Inc.*, Case No. 3:20-cv-01007 (M.D. Tenn.) (appointed co-class counsel in data breach class action settlement involving over 63,000 class members; final approval granted Aug. 2021);
2. *Baksh v. Ivy Rehab Network, Inc.*, Case No. 7:20-cv-01845-CS (S.D.N.Y.) (class counsel in a data breach class action settlement; final approval granted Feb. 2021);
3. *Mowery et al. v. Saint Francis Healthcare System*, Case No. 1:20-cv-00013-SRC (E.D. Mo.) (appointed class counsel; final approval granted Dec. 2020);
4. *Chatelain et al. v. C, L and W PLLC d/b/a Affordacare Urgent Care Clinics*, Case No. 50742-A (42nd District Ct., Taylor Cnty., Tex.) (appointed class counsel; settlement valued at over \$7 million; final approval granted Feb. 2021);
5. *Jackson-Battle v. Navicent Health, Inc.*, Case No. 2020-CV-072287 (Super. Ct. of Bibb Cnty., Ga.) (appointed class counsel in data breach case involving 360,000 patients; final approval granted Aug. 2021);
6. *Bailey v. Grays Harbor County Public Hospital District et al.*, Case No. 20-2- 00217-14 (Grays Harbor Cnty. Super. Ct., Wash.) (appointed class counsel in hospital data breach class action involving approximately 88,000 people; final approval granted Sept. 2020);
7. *Richardson v. Overlake Hospital Medical Center et al.*, Case No. 20-2-07460-8 SEA (King Cnty. Super. Ct., Wash.) (appointed class counsel in data breach case, final approval granted September 2021);
8. *Klemm et al. v. Maryland Health Enterprises Inc.*, Case No. C-03-CV-20-022899 (Cir. Crt. Baltimore Cnty., Md.) (appointed class counsel; final approval granted November 2021);
9. *In re: GE/CBPS Data Breach Litigation*, Case No. 1:2020-cv-02903 (S.D.N.Y.) (appointed co-lead counsel in nationwide class action);
10. *Nelson, et al. v. Idaho Central Credit Union*, Case No. CV03-20-00831 (Bannock Cnty., Id.) (appointed co-lead counsel in data breach class action involving 17,000 class members; granted final approval of settlement valued at \$3.3 million);
11. *In Re: Canon U.S.A. Data Breach Litigation*, Case No. 1:20-cv-06239- AMD-SJB (E.D.N.Y.) (appointed co-lead counsel, final approval granted);
12. *Suren et al. v. DSV Solutions, LLC*, Case No. 2021CH000037 (Ill. 18th Jud. Cir. Ct.,

- DuPage Cnty.) (appointed Settlement Class Counsel, final approval granted Sept. 26, 2021);
13. *Chacon v. Nebraska Medicine*, Case No. 8:21-cv-00070-RFR-CRZ (D. Neb.) (appointed class counsel in data breach settlement, final approval granted Sept. 2021);
 14. *Aguallo et al v. Kemper Corporation et al.*, Case No. 1:21-cv-01883 (N.D. Ill.) (appointed Co-lead Counsel, final approval granted of \$17.1 million class settlement);
 15. *In re: Herff Jones Data Breach Litigation*, Case No. 1:21-cv-1329-TWP- DLP (S.D. Ind.) (appointed co-lead counsel in data breach involving over 1 million persons; preliminary approval of \$4.35 million settlement granted Jan. 2022);
 16. *In Re: CaptureRx Data Breach Litigation*, Case No. 5:21-cv-00523-OLG (W.D. Tex.) (appointed co- lead counsel in data breach case involving over 2.4 million class members; preliminary approval of \$4.75 million settlement granted Feb. 2022);
 17. *In re Arthur J. Gallagher Data Breach Litigation*, Case No. 1:21-cv-04056 (N.D. Ill.) (appointed co- lead counsel in data breach case involving over 3 million class members);
 18. *Heath v. Insurance Technologies Corp.*, Case No. 21-cv-01444 (N.D. Tex.) (\$11 million settlement for a major data breach involving more than 4 million consumers);
 19. *Hough v. Navistar, Inc.*, Case No.: 2021L001161 (Ill. 18th Jud. Cir. Ct., DuPage Cnty.); (appointed co-lead class counsel; final approval granted May 2022);
 20. *Clark v. Mercy Hospital, et al*, Case No. CVCV082275 (Iowa Dist. Ct, Johnson Cnty.) (appointed class counsel; final approval granted July 2022);
 21. *Myschka, et al v. Wolfe Clinic, P.C. d/b/a Wolfe Eye Clinic*, Case No. CVCI011151 (Iowa Dist. Ct., Marshall Cnty.) (appointed class counsel; final approval granted June 2022);
 22. *Devine, et al v. Health Aid of Ohio, Inc.*, Case No. CV-21-948117 (Ct. of Common Pleas, Cuyahoga Cnty., Ohio) (appointed class counsel; final approval granted September 2022);
 23. *Davidson v. Healthgrades Operating Company, Inc.*, Case No. 1:21-cv-01250- RBJ (D. Colo.), (appointed class counsel; final approval granted August 2022);
 24. *Bodie v. Capitol Wholesale Meats, Inc.*, Case No. 2022CH000020 (Ill. 18th Jud. Cir. Ct., DuPage Cnty.) (appointed class counsel; final approval granted March 2022);
 25. *Culp v. Bella Elevator LLC*, Case No. 2021-CH-00014 (Ill. 10th Jud. Cir. Ct., Peoria Cnty.) (appointed class counsel; final approval granted May 2022);
 26. *Cain, et al. v. OSF Healthcare*, Case No. 21-L-00231 (Ill. 10th Jud. Cir. Ct., Peoria Cnty.) (appointed settlement class counsel; final approval granted January 2023);

27. *Nelson, et al. v. Bansley & Kiener*, Case No. 2021-CH-06274 (Ill. Cir. Ct., Cook Cnty.) (appointed class counsel; final approval granted November 2022);
28. *Steen v. The New London Hospital Association, Inc.*, Case No. 217-2021-CV-00281 (Merrimack Super. Ct., N.H.) (appointed class counsel; final approval granted January 2023);
29. *Summers II v. Sea Mar Community Health Ctrs.*, Case No. 22-2-00773-7 SEA (King Cnty. Super. Ct., Wash.) (appointed class counsel; final approval granted December 2022);
30. *In re Forefront Data Breach Litigation*, Master File No. 1:21-cv-00887-LA (E.D. Wis.) (appointed settlement class counsel; final approval granted March 2023);
31. *Engle v. Talbert House*, Case No.: A2103650 (Crt. of Common Pleas, Hamilton Cnty., Ohio) (appointed class counsel; final approval granted February 2023);
32. *Henderson et al. v. San Juan Regional Medical Center*, Case No. D-1116-CV- 2021-01043 (11th Jud. Dist. Ct., San Juan Cnty., N.M.) (appointed class counsel; final approval granted March 2023);
33. *Cathy Shedd v. Sturdy Memorial Hospital, Inc.*, Civ. Action No: 2173 CV 00498 (Mass. Super. Ct.) (appointed class counsel; final approval granted February 2023);
34. *Hawkins et al. v. Startek, Inc.*, Case No. 1:22-cv-00258-RMR-NRN (D. Colo.) (appointed class counsel; final approval granted April 2023);
35. *McHenry v. Advent Health Partners, Inc.*, Case No. 3:22-cv-00287 (M.D. Tenn.) (appointed settlement class counsel; final approval granted April 2023);
36. *Beasley et al. v. TTEC Services Corporation*, Case No. 1:22-cv-00097-PAB-STV (D. Colo.) (appointed class counsel; preliminary approval granted May 2023);
37. *Boyd v. Public Employees Credit Union*, Case No. 1:22-cv-00825-LY (W.D. Tex.) (appointed class counsel; final approval granted June 9, 2023);
38. *Charlie et al. v. Rehoboth McKinley Christian Healthcare Services*, Case No. 1:21-00652-SCY-KK (D.N.M.) (appointed class counsel; final approval granted July 2023);
39. *Sharma et al. v. Accutech Systems Corporation*, Case No. 18C02-2210-CT-000135 (Del. Cir. Ct., Del. Cnty., Ind.) (appointed class counsel; final approval granted November 2023);
40. *Simmons et al. v. Assistcare Home Health Services, LLC*, Index No. 511490/2021 (N.Y. Supr. Ct., Kings Cnty.) (appointed settlement class counsel; final approval granted August 2023);

41. *Bailey et al. v. Alacrity Solutions Group, LLC*, Case No. 29D03-2204-PL-002383 (Ind. Super. Ct., Hamilton Cnty.) (appointed class counsel; final approval granted June 2023);
42. *Retsky et al. v. Super Care, Inc d/b/a/ Supercare Health*, Case No. 22STCV16267 (CA Superior Ct., Los Angeles Cnty.) (appointed class counsel; final approval granted August 2023);
43. *In re Medical Review Institute of America, LLC, Data Breach Litigation*, Case No. 2:22-cv-0082-DAK-DAO (D. Utah) (appointed co-lead class counsel; final approval granted August 2023);
44. *Colon v. Creative Ventures Inc.*, Case No. 2023LA000177 (Ill. 18th Jud. Cir. Ct., DuPage Cnty.) (appointed settlement class counsel; final approval granted September 2023);
45. *Jones v. Horizon House, Inc.*, Case No. 01767, Control No. 23030116 (Ct. of Common Pleas, Philadelphia Cnty., 1st Jud. Dist., Pa.) (appointed class counsel; final approval granted Nov. 20, 2023);
46. *Keefe, et al v. Froedtert Health, Inc.*, Case No. 2023CV001935 (Cir. Ct. of Wisc., Milwaukee Cnty.) (appointed settlement class counsel; final approval granted September 29, 2023);
47. *Reynolds, et al v. Marymount Manhattan College*, Case No. 1:22-cv-06846 (S.D.N.Y.) (appointed settlement class counsel; final approval granted October 20, 2023);
48. *Borre v. O'Hare Towing Systems, Inc.*, Case No. 2020-CH-02865 (Ill. Circ. Ct., Cook Cnty.) (appointed settlement class counsel; final approval granted 10/25/2023);
49. *In re: Novant Health, Inc.*, Case No. 1:22-cv-00697 (M.D.N.C.) (appointed class counsel; final approval granted June 6, 2024);
50. *Lukis, et al v. OnePlus USA Corp.*, Case No. 2023LA000573 (Ill. 18th Jud. Cir. Ct., DuPage Cnty.) (appointed class counsel; final approval granted February 21, 2024);
51. *Charitat v. Pape-Dawson Engineers, Inc.*, Case No. 2022C121570 (438th Jud. Dist. Ct. of Tex., Bexar Cnty.) (appointed class counsel; final approval granted Nov. 13, 2023);
52. *Cline, et al v. Inline Network Integration LLC*, Case No. 2023LA000402 (Ill. 18th Jud. Cir. Ct., DuPage Cnty.) (appointed class counsel; final approval granted Dec. 13, 2023);
53. *Czarnionka v. The Epoch Times Association, Inc.*, Case No. 1:22-cv-06348-AKH (S.D.N.Y.) (appointed class counsel; preliminary approval granted Jan. 22, 2024);
54. *Sherwood, et al v. Horizon Actuarial Services, LLC*, Case No. 1:22-cv-01495-ELR (N.D. Ga.) (appointed class counsel; final approval granted April 2, 2024);

55. *Prevost, et al v. Roper St. Francis Healthcare*, Case No. 2021-CP-10-01754 (9th Jud. Cir. Ct. of S.C., Ct. of Common Pleas) (appointed co-class counsel; final approval granted May 2, 2024);
56. *Perry v. Bay & Bay Transportation Services*, Case No. 22-973-JRT/ECW (D. Minn.) (appointed class counsel; final approval granted Jan. 23, 2024);
57. *In re C.R. England, Inc. Data Breach Litigation*, Case No. 2:22-cv-374-DAK-JCB (D. Utah) (appointed class counsel; final approval granted March 18, 2024);
58. *Hoover v. Camping World Group, LLC, et al*, Case No. 2023LA000372 (Ill. 18th Jud. Cir. Ct., DuPage Cnty.) (appointed class counsel; final approval granted May 23, 2024);
59. *Guy v. Convergent Outsourcing, Inc.*, Case No. C22-1558-MJP (W.D. Wash.) (appointed class counsel; preliminary approval granted Feb. 20, 2024);
60. *Farley, et al v. Eye Care Leaders Holdings, LLC*, Case No. 1:22-cv-468 (M.D.N.C.) (appointed class counsel; final approval granted June 27, 2024);
61. *Parris, et al v. Meta Platforms, Inc.*, Case No. 2023LA000672 (Ill. 18th Jud. Cir. Ct., DuPage Cnty.) (appointed class counsel; final approval granted March 7, 2024);
62. *Kaether, Scott v. Metropolitan Area EMS Auth. d/b/a MedStar Mobile Healthcare*, Cause No. 342-339562-23 (342nd Jud. Ct., Tarrant Cty. of Tex.) (appointed class counsel; final approval granted March 22, 2024);
63. *Medina, et al v. PracticeMax Inc.*, Case No. CV-22-01261-PHX-DLR (D. Ariz.) (appointed class counsel; final approval granted March 14, 2024);
64. *Julien, et al v. Cash Express, LLC*, Case No. 2022-CV-221 (Tenn. Cir. Ct., Putnam Cnty.) (appointed class counsel; final approval granted Nov. 9, 2023);
65. *Forslund, et al v. R. R. Donnelley & Sons Co.*, Case No. 1:22-cv-04260-JJT (N.D. Ill.) (appointed class counsel; final approval granted March 15, 2024);
66. *Stauber v. Sudler Property Management*, Case No. 2023LA000411 (Ill. 18th Jud. Cir. Ct., DuPage Cnty.) (appointed class counsel; final approval granted January 22, 2024);
67. *Aragon v. Weil Foot and Ankle Institute, LLC*, Case No. 2021-CH-01437 (Ill. Circ. Ct., Cook Cnty.) (appointed class counsel; final approval granted May 13, 2024);
68. *In Re Wright & Filippis, LLC Data Security Breach Litigation*, Case No. 2:22-cv-12908-SFC (E.D. Mich.) (appointed class counsel; final approval granted June 20, 2024);
69. *Doe, et al v. Knox College*, Case No. 2023LA9, (Ill. 9th Jud. Ct., Knox Cnty..) (appointed class counsel; final approval granted Jan. 19, 2024);

70. *In Re Afni, Inc. Data Breach Litigation*, Case No. 1:22-cv-01287-JES-JEH (C.D. Ill.) (appointed class counsel; final approval granted Sept. 26, 2023);
71. *In Re Central Indiana Orthopedics Data Incident Litig.*, Cause No. 18C03-2203-PL-000026 (Ind. Cir. Ct., Delaware Cnty.) (appointed class counsel; final approval granted Aug. 18, 2023);
72. *Viruet v. Comm. Surgical Supply, Inc.*, Case No. OCN L-001215-23 (N.J. Sup. Ct., Ocean Cnty.) (appointed co-class counsel; final approval granted Nov. 17, 2023);
73. *K.B, et al v. East Tenn. Children's Hosp. Assoc., Inc.*, Case No. C2LA0081 (Tenn. Cir. Ct., Clinton Cnty.) (appointed co-class counsel; final approval granted December 19, 2023);
74. *Johnson v. Filtration Group LLC*, Case No. 2020-CH-00138 (Ill. Circ. Ct., Cook Cnty.) (appointed class counsel; final approval granted Dec. 22, 2023);
75. *Richardson, et al v. Gershman Investment Corp.*, Case No. 22SL-CC03085 (Mo. Circ. Ct., St. Louis Cnty.) (appointed class counsel; final approval granted Nov. 6, 2023);
76. *McNicholas v. Ill. Gastroenterology Group, PLLC*, Case No. 22LA00000173 (Ill. 19th Jud. Cir. Ct., Lake Cnty.) (appointed class counsel; final approval granted June 23, 2023);
77. *Vandermark v. Mason Tenders' Distr. Council Welfare Fund, et al*, Index No. 15336/2023 (N.Y. Supr. Ct., N.Y. Cnty.) (appointed class counsel; final approval granted Oct. 11, 2023);
78. *Lhota, et al v. Mich. Ave. Immediate Care, S.C.*, Case No. 2022-CH-06616 (Ill. Cir. Ct., Cook Cnty.) (appointed class counsel; final approval granted Aug. 15, 2023);
79. *Young, et al v. Military Advantage, Inc., et al*, Case No. 2023LA00535 (Ill. 18th Jud. Cir. Ct., DuPage Cnty.) (appointed class counsel; final approval granted Nov. 2023);
80. *In re Advocate Aurora Health Pixel Litigation*, Case No. 2:22-cv-01253-JPS (ED WI) (appointed class counsel, final approval granted July 10, 2024);
81. *Edri v. Brooklyn Premier Orthopedics and Pain Management PLLC d/b/a Brooklyn Premier Orthopedics*, Case No. 1:23-cv-07943-HG (E.D.N.Y.) (appointed class counsel);
82. *Oche v. National Math & Science Initiative*, Index No. 510959/2023 (N.Y. Supr. Ct, Kings Cnty.) (appointed class counsel; final approval granted June 12, 2024);
83. *Baker, et al v. SLT Lending SPV, Inc., d/b/a SUR La Table*, Case No. 2:23-cv-00190-PPS-JEM (N.D. Ind.) (appointed interim lead counsel);
84. *Green v. EmergeOrtho, P.A.*, Case No. 22CVS3533 (N.C. Super. Ct., Durham Cnty.) (appointed class counsel; preliminary approval granted Feb. 23, 2024);

85. *Hamilton v. Forward Bank, et al*, Case No. 3:23-cv-00844 (W.D. Wis.) (appointed Interim Co-Lead Counsel);
86. *In re Retina Group of Washington Data Security Incident Litig.*, Case No. 8:24-cv-00004-TDC (D. Md.) (appointed Interim Co-Lead Counsel);
87. *Trottier, et al v. Sysco Corporation*, Case No. 4:23-cv-01818 (S.D. Tex.) (appointed Interim Co-Lead Counsel);
88. *In Re: PostMeds Inc. Data Breach Litigation*, Case No. 4:23-cv-05710-HSG (N.D. Cal.) (appointed Interim Co-Lead Counsel);
89. *In Re Tenet Healthcare Corp. Data Breach Litigation*, Cause No. DC-22-07513 (193rd Jud. Ct. of Tex., Dallas Cnty.) (appointed class counsel; final approval granted June 5, 2024);
90. *Bracy, et al v. Americold Logistics, LLC.*, Case No. 1:23-cv-05743-TWT (N.D. Ga.) (appointed Co-Lead Counsel);
91. *Moure v. DialAmerica Marketing, Inc.*, Case No. 3:22-cv-00625-OAW (D. Conn.) (appointed class counsel; preliminary approval granted Apr. 1, 2024);
92. *Brim v. Prestige Care, Inc.*, Case No. 3:24-cv-05133-BHS (W.D. Wash.) (appointed class counsel);
93. *Drugich, et al v. McLaren Health Care Corporation*, Case No. 2:23-cv-12520-MFL-CI (E.D. Mich.) (appointed class counsel);
94. *Kimber, et al v. Cook County Health and Hospitals System, et al*, Case No. 2023CH09293 (Ill. Cir. Ct, Cook Cty) (appointed co-lead counsel);
95. *Doe v. Lima Memorial Hospital, et al.*, Case No. CV2022 0490 (Crt. of Common Pleas, Allen Cnty., Ohio) (appointed Class Counsel; preliminary approval granted Apr. 11, 2024);
96. *Mikulecky, et al v. Lutheran Social Services of Illinois*, Case No. 2023-CH-00895 (Cir. Ct., Cook Cnty., Il.) (appointed Class Counsel; preliminary approval granted Apr. 17, 2024);
97. *Kidd v. Lifescan Labs of Illinois, LLC*, Case No. 2023LA44 (Cir. Ct., Whiteside Cnty., Ill.) (appointed Class Counsel; preliminary approval granted Apr. 22, 2024);
98. *Rentschler, et al v. Atlantic General Hospital Corporation*, Case No. 1:23-cv-01005-JRR (D. Md.) (appointed Class Counsel; preliminary approval granted Apr. 25, 2024);
99. *Fazenbaker, et al v. Community Health Care, Inc., d/b/a CompleteCare Health Network*, Case No. CUM-L-000036-24 (N.J. Super. Ct, Cumberland Cty) (appointed Interim co-Lead Class Counsel);

100. *Cabezas, et al v. Mr. Cooper Group, Inc.*, Case No. 3:23-cv-02453-n (N.D. Tex.) (appointed Interim Co-Lead Class Counsel);
101. *In re loanDepot Data Breach Litig.*, Case No. 8:24-cv-00136-DOC-JDEx (C.D. Cal.) (appointed Interim Co-Lead Class Counsel);
102. *In re Golden Corral Data Breach Litig.*, Case No. 5:24-cv-00123-M-BM (E.D.N.C.) (appointed Interim Lead Class Counsel);
103. *Rehmsmeyer, et al v. Premium Mortgage Corporation*, Index No. E2024001652 (N.Y. Supreme Court, Monroe Cty.) (appointed Interim Co-Lead Counsel);
104. *Stinson, et al v. YUM! Brands, Inc.*, Case No. 3:23-cv-00183-DJH-LLK (W.D.K.Y.) (Appointed Interim Class Counsel);
105. *Harrell v. WebTPA Employer Services, LLC*, Case No. 3:24-cv-01158-L (N.D. Tex.) (appointed Interim Class Counsel);
106. *In Re Onix Group, LLC Data Breach Litigation*, Case No. 2:23-cv-02288-KSM (E.D. Pa.) (appointed Class Counsel);
107. *Maroulis, et al v. Cooper Clinic, P.A., et al*, Case No. DC-24-00843 (44th Jud. Ct. of Tex., Dallas Cnty.) (Appointed Interim Co-Lead Counsel);
108. *Hulewat v. Medical Management Resource Group LLC*, Case No. CV-24-00377-PHX-DJH (D. Ariz.) (Appointed Interim Co-Lead Counsel);
109. *Spann v. Superior Air-Ground Ambulance Service, Inc.*, Case No. 1:24-cv-04704 (N.D. Ill.) (Appointed Interim Co-Lead Counsel);

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No.1:24-cv-00642-NRN

RACHEL WILLIAMS and
GENOVEVA MILTON, individually
and on behalf of all others similarly situated,

Plaintiffs,

v.

AIR METHODS, LLC,

Defendant.

[PROPOSED] PRELIMINARY APPROVAL ORDER

Before this Court is Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement ("Motion"). The Court has reviewed the Motion and Settlement Agreement between Plaintiffs and Defendant Air Methods, LLC. After reviewing Plaintiffs' unopposed request for preliminary approval, this Court grants the Motion and preliminarily concludes that the proposed Settlement is fair, reasonable, and adequate.

IT IS HEREBY ORDERED THAT:

1. The Settlement Agreement,¹ including the proposed notice plan and forms of notice to the Settlement Class, the appointment of Plaintiffs Rachel Williams and Genoveva Milton as the Class Representatives, the appointment of David K. Lietz and Gary M. Klinger as Class Counsel for Plaintiffs and the Settlement Class, the approval of Simpluris as the Settlement

¹ All capitalized terms used in this Order shall have the same meanings as set for in the Settlement Agreement.

Administrator, the various forms of class relief provided under the terms of the settlement and the proposed method of distribution of settlement benefits, are fair, reasonable, and adequate, subject to further consideration at the Final Approval Hearing described below.

2. The Court does hereby preliminarily and conditionally approve and certify, for settlement purposes, the following Settlement Class:

The approximately 24,568 individuals who received direct notification that their Personal Information may have been implicated in the Security Incident.²

3. Based on the information provided, for the purposes of settlement only: the Settlement Class is ascertainable; it consists of roughly 24,568 Settlement Class Members satisfying numerosity; there are common questions of law and fact including whether Defendant failed to implement and maintain reasonable security procedures and practices appropriate to the nature and scope of the information potentially implicated in the Security Incident, satisfying commonality; the proposed Class Representatives' claims are typical in that they are members of the Settlement Class and allege they have been damaged by the same conduct as the other members of the Settlement Class; the proposed Class Representatives and Class Counsel fully, fairly, and adequately protect the interests of the Settlement Class; questions of law and fact common to members of the Settlement Class predominate over questions affecting only individual members for settlement purposes; and a class action for settlement purposes is superior to other available methods for the fair and efficient adjudication of this Action.

4. The Court appoints Plaintiffs Rachel Williams and Genoveva Milton as the Class Representatives.

5. The Court appoints Gary M. Klinger and David K. Lietz of Milberg Coleman

² “Security Incident” shall mean the November 2023 incident in which a criminal third-party stole a laptop that may have contained certain patient information.

Bryson Phillips Grossman, PLLC as Class Counsel for the Settlement Class.

6. The Court appoints Simpluris as the Settlement Administrator.

7. A Final Approval Hearing shall be held before the Court on ___[date]_____, 2024 at ___[time]_____, or by remote means, for the following purposes:

- a) To determine whether the proposed Settlement is fair, reasonable, and adequate to the Settlement Class and should be approved by the Court;
- b) To determine whether to grant Final Approval, as defined in the Settlement Agreement;
- c) To determine whether the notice plan conducted was appropriate;
- d) To determine whether the claims process under the Settlement is fair, reasonable and adequate and should be approved by the Court;
- e) To determine whether the requested Class Representative Service Awards of \$2,500.00 each, and Class Counsel's attorneys' fees, of up to 1/3 of the Settlement Fund (\$80,000) plus reasonable out-of-pocket litigation expenses should be approved by the Court;
- f) To determine whether the settlement benefits are fair, reasonable, and adequate; and,
- g) To rule upon such other matters as the Court may deem appropriate.

8. The Court approves, as to the form and content, the notices (including the Postcard Notice). Furthermore, the Court approves the implementation of the Settlement Website and the proposed methods of mailing or distributing the notices substantially in the form as presented in the exhibits to the Unopposed Motion for Preliminary Approval of Class Action Settlement, and

finds that such notice plan meets the requirements of Fed. R. Civ. P. 23 and due process, and is the best notice practicable under the circumstances, and shall constitute due and efficient notice to all persons or entities entitled to notice.

9. The Court preliminarily approves the following Settlement Timeline for the purposes of conducting the notice plan, Settlement Administration, claims processing, and other execution of the proposed Settlement:

SETTLEMENT TIMELINE

<u>From Order Granting Preliminary Approval</u>	
Defendant provides Class Member Information to the Settlement Administrator	+10 days after preliminary approval order
Long Form and Postcard Notices Posted on the Settlement Website	Upon Class Notice Date
Class Notice Date	+30 days after preliminary approval order
Plaintiffs' Counsel's motion for Fees and Expenses and Service Awards	-14 days before the Request for Exclusion and Objection Deadlines
Objection Deadline	+60 days after Class Notice Date
Request for Exclusion Deadline	+60 days after Class Notice Date
Claims Deadline	+90 days after Class Notice Date
<u>Final Approval Hearing</u>	
	, 2024
Motion for Final Approval	-14 days from the Final Approval Hearing
<u>From Order Granting Final Approval</u>	
Effective Date	+31 days, assuming no appeal has been taken. See definition of Final in the Agreement.
Payment of Plaintiffs' Counsel's Fees and Expenses and Service Awards	+10 days after Effective Date
Payment of Valid Claims to Settlement Class Members	+30 days of Effective Date
Settlement Website Deactivation	+180 days after Effective Date

10. In order to be a timely claim under the Settlement, a Claim Form must be either postmarked or received by the Settlement Administrator no later than 90 days after the Class Notice Date. Class Counsel and the Settlement Administrator will ensure that all specific dates and

deadlines are added to the Postcard Notice and posted on the Settlement Website after this Court enters this Order in accordance with the timeline being keyed on the grant of this Order.

11. Additionally, all requests to opt out or object to the proposed Settlement must be postmarked by or received by the Settlement Administrator no later than 60 days after the Class Notice Date. Any request for exclusion from the Settlement should, to the extent possible, contain words or phrases such as “opt-out,” “exclusion,” or words or phrases to that effect indicating an intent not to participate in the settlement or be bound by this Agreement to Simpluris. Requests for Exclusion shall not be rejected simply because they were inadvertently sent to the Court or Class Counsel so long as they are timely postmarked or received by the Court, Simpluris, or Class Counsel. Settlement Class Members who seek to exclude themselves shall receive no benefit or compensation under this Agreement.

12. Settlement Class Members may submit an objection to the proposed Settlement under Federal Rule of Civil Procedure 23(e)(5). For an Objection to be valid, it must Settlement must be postmarked by or received by the Settlement Administrator no later than 60 days after the Class Notice Date and include each and all of the following:

- (i) the objector’s full name, current address, current telephone number, and be personally signed,
- (ii) (ii) the case name and case number, *Williams et al. v. Air Methods, LLC*, Civil Action No.1:24-cv-00642-NRN,
- (iii) documentation sufficient to establish membership in the Settlement Class, such as a copy of the Postcard Notice he or she received,
- (iv) a statement of the position(s) the objector wishes to assert, including the factual and legal grounds for the position(s),

- (v) (v) copies of any other documents that the objector wishes to submit in support of his/her position,
- (vi) whether the objecting Settlement Class Member intends to appear at the Final Approval Hearing, and
- (vii) (v) whether the objecting Settlement Class Member is represented by counsel and, if so, the name, address, and telephone number of his/her counsel.

Any Objection failing to include the requirements expressed above will be deemed to be invalid. Furthermore, any Settlement Class Member objecting to the Settlement agrees to submit to any discovery related to the Objection. Any Settlement Class Member objecting to the Settlement agrees to submit to any discovery related to the Objection.

13. All Settlement Class Members shall be bound by all determinations and judgments in this Action concerning the Settlement, including, but not limited to, the releases, including the Released Claims, provided for in the Settlement Agreement, whether favorable or unfavorable, except those who timely and validly request exclusion from the Settlement Class. The persons and entities who timely and validly request exclusion from the Settlement Class will be excluded from the Settlement Class and shall not have rights under the Settlement Agreement, shall not be entitled to submit Claim Forms, and shall not be bound by the Settlement Agreement or any Final Approval order as to Air Methods, LLC in this Action.

14. Pending final determination of whether the Settlement Agreement should be approved, Plaintiffs and the Settlement Class are barred and enjoined from commencing or prosecuting any claims asserting any of the Released Claims against Air Methods, LLC or the other Released Parties.

15. In the event that the Settlement Agreement is terminated pursuant to the terms of

the Settlement Agreement: (a) the Settlement Agreement and this Order shall become void, shall have no further force or effect, and shall not be used in the Action or any other proceedings for any purpose other than as may be necessary to enforce the terms of the Settlement Agreement that survive termination; (b) this matter will revert to the status that existed before execution of the Settlement Agreement; and (c) no term or draft of the Settlement Agreement or any part of the Parties' settlement discussions, negotiations or documentation (including any briefs filed in support of preliminary or final approval of the settlement) shall (i) be admissible into evidence for any purpose in this Action or in any other action or proceeding other than as may be necessary to enforce the terms of the Settlement Agreement that survive termination, (ii) be deemed an admission or concession by any Party regarding the validity of any of the Released Claims or the propriety of certifying any class against Air Methods, or (iii) be deemed an admission or concession by any Party regarding the truth or falsity of any facts alleged in the Action or the availability or lack of availability of any defense to the Released Claims.

16. The Court reserves the right to adjourn the date of the Final Approval Hearing without further notice to the potential Settlement Class Members and retains jurisdiction to consider all further requests or matters arising out of or connected with the proposed Settlement. The Court may approve the Settlement, with such modification as may be agreed to by the Parties or as ordered by the Court, without further notice to the Settlement Class.

IT IS SO ORDERED.

/s/ _____
The Honorable N. Reid Neureiter
United States Magistrate Judge