

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE – CIVIL COMPLEX

*St. Joseph Health System Medical
Information Cases*

Case No. JCCP 4716

Honorable Kim G. Dunning

SETTLEMENT AGREEMENT

This Settlement Agreement, dated September 10, 2015 (the “Settlement Agreement” or “Settlement”), is made and entered into by and among the following settling parties (“Settling Parties”): (i) Deanna DeBaeke, Danna Graewingholt, Jeannie Hambric, Linda Kerkow, and Desiree Ortiz (“Class Representatives”), individually and on behalf of the Settlement Class Members (as defined in ¶ 1.6 below); and (ii) St. Joseph Health System, Mission Hospital Regional Medical Center, St. Jude Hospital, Queen of the Valley Medical Center, Santa Rosa Memorial Hospital, Petaluma Valley Hospital Auxiliary, The Auxiliary of Mission Hospital Laguna Beach, The Auxiliary of Mission Hospital Mission Viejo, Saint Joseph Hospital of Orange, Saint Joseph Hospital of Eureka and Redwood Memorial Hospital of Fortuna (collectively, “Defendants”). The Settlement Agreement is intended by the Settling Parties to fully, finally, and forever resolve, discharge, and settle all of Plaintiffs’ Released Claims (as defined in ¶ 1.17 below), upon and subject to the terms and conditions hereof.

I. BACKGROUND

In or around February 13, 2012, St. Joseph Health System (“SJHS”) sent letters to approximately 31,802 of its patients, notifying them that it had inadvertently made their personal health information publicly accessible on the Internet, thus allowing outside search engines to

have access to the information. The letter stated that the type of information accessible included the following: diagnoses lists, active medication lists, lab results, medication allergies, body mass index (BMI), blood pressure, smoking status, advance directive status, and demographic information, including spoken language, ethnicity, race, gender and birth date. The information was allegedly accessible from approximately February 2011 to February 2012.

1. Plaintiffs' Discovery and Notification of the Breach to SJHS

In late January 2012, an SJHS patient (Class Representative Danna Graewingholt) discovered that her medical information was publicly accessible online following a search using the Google search engine. On approximately January 30, 2012, the patient, through counsel, notified SJHS's legal department that her medical information, as well as the medical information of what appeared to be several thousand other patients, was publicly accessible on the Internet. After further confirming the allegations, SJHS sent the aforementioned notification letters to the approximately 31,802 affected patients.

2. The Litigation

On February 17, 2012, two of the affected patients (Class Representatives Jeannie Hambric and Desiree Ortiz) initiated the litigation ("Litigation") by filing separate class action complaints against SJHS and several of its hospitals in Orange County Superior Court, alleging (among other causes of action) that SJHS had violated the Confidentiality of Medical Information Act ("CMIA") by releasing its patients' medical information. After several other patients filed class action complaints and a Petition for Coordination was filed, the Honorable Kim G. Dunning of the Orange County Superior Court was assigned the Coordination Motion Judge of Judicial Council Coordinated Proceeding (JCCP) 4775 on May 9, 2012. On July 18, 2012, the Honorable Thomas J. Borris, Presiding Judge of Orange County, assigned Judge

Dunning as the Coordination Trial Judge. The Court designated Daniel S. Robinson, Robinson Calcagnie Robinson Shapiro Davis, Inc. and Jeremiah Frei-Pearson, Meiselman, Denlea, Packman, Carton & Eberz P.C.¹ as Plaintiffs' Co-Lead Counsel, and Jeffrey H. Reeves, Gibson Dunn & Crutcher, as Defendants' Lead and Liaison Counsel on September 12, 2012.

During the course of discovery, Plaintiffs learned several factors that contributed to the Alleged Breach (as defined in ¶ 1.1 below). On December 12, 2012, Plaintiffs filed a consolidated Master Class Action Complaint in the Litigation, alleging four causes of action:

- (1) violation of the CMIA;
- (2) negligence;
- (3) money had and received; and
- (4) violation of the California Unfair Competition Law (UCL), California Business and Professionals Code, Section 17200, *et. seq.*

On December 5, 2014, after the parties submitted extensive briefing and the Court heard oral argument on the issues, the Court granted Plaintiffs' Motion for Class Certification on the CMIA claim, finding that the Class satisfied all requirements under Code of Civil Procedure Section 382 and Rule of Court 3.764. The Court defined the class as follows:

All SJHS patients whose confidential medical information was made publicly accessible on the Internet by Defendants at any point from February 1, 2011 through February 28, 2012.

Pursuant to the Court's order, all Class Members were sent, by mail, notice of the Court's Order granting Plaintiffs' Motion for Class Certification, and informing them of their right to opt

¹ Mr. Frei-Pearson's firm is now Finkelstein, Blankinship, Frei-Pearson & Garber, LLP.

out of the Class. As a result, approximately 556 Class Members (1.7%) elected to opt out of the Class.

Pursuant to the terms set forth below, this Settlement Agreement resolves all Claims (as defined in ¶ 1.2 below), actions and proceedings asserted, or that could be asserted, against SJHS arising out of or related to the Alleged Breach, by or on behalf of members of the Settlement Class herein defined, but excluding the rights of Class Members who have previously excluded themselves from the certified Class or who exclude themselves in the future from the Settlement Class after receiving notice of this Settlement.

II. CLAIMS OF THE REPRESENTATIVE PLAINTIFFS AND BENEFITS OF THE SETTLEMENT

The Class Representatives and Co-Lead Class Counsel believe the Claims (as defined in ¶ 1.2) asserted in the Litigation have merit. However, the Class Representatives, Co-Lead Class Counsel, and other Plaintiffs' Counsel involved recognize that the expense and length of the additional proceedings necessary to prosecute the Litigation against Defendants through further motion practice, trial, and possible appeal is considerable, and therefore, that resolution is an appropriate and reasonable means of ensuring that the Class is afforded important benefits and protections as expediently as possible. Plaintiffs' Co-Lead Class Counsel and other Plaintiffs' Counsel have also taken into account the uncertain outcome and the risk of further litigation, including in class action cases such as this Litigation, as well as the difficulties and delays inherent in such litigation.

Co-Lead Class Counsel and other Plaintiffs' Counsel believe that the terms set forth in this Settlement Agreement confer substantial benefits upon the Class. Class Representatives, Co-Lead Class Counsel, and the other Plaintiffs' Counsel have determined that the terms set

forth in this Settlement Agreement are fair, reasonable, adequate, and in the best interests of the Class.

III. DENIAL OF WRONGDOING AND LIABILITY

Defendants deny all material allegations made by Plaintiffs and assert that this Settlement Agreement is a compromise of disputed allegations, and shall not be construed as an admission of liability, wrongdoing, or responsibility on the part of Defendants.

IV. TERMS OF SETTLEMENT

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among the Class Representatives, individually and on behalf of the Settlement Class Members, and Defendants that, subject to approval by the Court, the Litigation and Plaintiffs' Released Claims shall be finally and fully compromised, settled, and released, and a Judgment and Final Approval Order shall be entered subject to the following terms and conditions of this Settlement Agreement.

1. Definitions

As used in the Settlement Agreement, the following terms have the meanings specified below:

1.1 The "Alleged Breach" refers to the data breach that is the subject of this lawsuit, whereby certain information—including diagnoses lists, active medication lists, lab results, medication allergies, body mass index (BMI), blood pressure, smoking status, advance directive status, and demographic information, including spoken language, ethnicity, race, gender and birth date—of several-thousand patients from SJHS hospitals was publicly accessible on the Internet between approximately February 2011 and February 2012.

1.2 “Claims” means all known and unknown claims, actions, allegations, demands, rights, liabilities, and causes of action of every nature and description whatsoever, whether contingent or non-contingent, and whether at law or equity.

1.3 “Claims Submission Packet” means, for any Participating Settlement Class Member (as defined below) who seeks reimbursement of losses (pursuant to ¶ 2.3(a)) or out-of-pocket expenses (pursuant to ¶ 2.3(b)) incurred as a result of the Alleged Breach, a written Claims Form or Forms (attached as Exhibits A and B) together with proof of such losses.

1.4 “Claims Period” refers to the time period from February 1, 2011 through and including January 1, 2017.

1.5 “Class” or “Class Member” refers to all SJHS patients whose confidential medical information was publicly accessible on the Internet at any point from February 1, 2011 through February 28, 2012.

1.6 “Settlement Class” or “Settlement Class Member” means any individual who (1) falls within definition of the Class or Class Member (as defined in ¶ 1.5), and (2) who did not previously timely and validly exclude himself or herself from the certified Class.

1.7 “Participating Settlement Class Member” means any Settlement Class Member who does not timely and validly exclude himself or herself from the Settlement Class after receiving notice of this Settlement.

1.8 “Class Representative,” “Named Plaintiff,” or “Representative Plaintiff,” refers to Deanna DeBaeke, Danna Graewingholt, Jeannie Hambric, Linda Kerkow, and Desiree Ortiz, as appointed by the Court in its December 5, 2014 Order Granting Plaintiffs’ Motion for Class Certification.

1.9 “Co-Lead Class Counsel” refers to Daniel S. Robinson, Robinson, Calcagnie & Robinson, and Jeremiah Frei-Pearson, Finkelstein, Blankinship, Frei-Pearson & Garber, as appointed by the Court in its December 5, 2014 Order Granting Plaintiffs’ Motion for Class Certification.

1.10 “Effective Date” means the first date by which all of the events and conditions specified in ¶ 9.1 hereof have occurred and been met, at which point the Settlement Agreement becomes effective.

1.11 “First-Round Checks” refers to the initial checks sent to Participating Settlement Class Members, pursuant to ¶ 2.2.

1.12 “Identity Theft” means the unlawful use of a Participating Settlement Class Member’s name, address, Social Security number (SSN), bank or credit card account number, medical information, or other identifying information without the Participating Settlement Class Member’s knowledge.

1.13 “Judgment and Final Approval Order” means a judgment and final approval order entered by the Court: (i) in the form attached hereto as Exhibit C; or (ii) a judgment in substantially similar form which is acceptable to the Settling Parties.

1.14 “Notification Letter” means a letter sent from SJHS, Mission Hospital Regional Medical Center, St. Jude Hospital, Queen of the Valley Medical Center, Santa Rosa Memorial Hospital, Petaluma Valley Hospital Auxiliary, The Auxiliary of Mission Hospital Laguna Beach, The Auxiliary of Mission Hospital Mission Viejo, Saint Joseph Hospital of Orange, Saint Joseph Hospital of Eureka and Redwood Memorial Hospital of Fortuna, dated anytime from February 1, 2012 through March 31, 2012, notifying a Class Member they may have been affected by the Alleged Breach.

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

1.16 “Plaintiffs’ Counsel” means Co-Lead Class Counsel, Liaison Counsel for the Class, members of the Plaintiffs’ Steering Committee, and all other attorneys, as agreed to by Co-Lead Class Counsel and SJHS Lead and Liaison Counsel, who represent Named Plaintiffs who have joined in this settlement.

1.17 “Plaintiffs’ Released Claims” shall collectively mean any and all Claims (including, without limitation, any causes of action under the Confidentiality of Medical Information Act, California Civil Code § 56, *et seq.*; the California Unfair Competition Law, California Civil Code § 17200, *et seq.*; and negligence) for damages, costs, losses of services, expenses and compensation of any nature whatsoever, whether based on tort, contract or other theory of recovery which Participating Settlement Class Members and Class Representatives (along with all of their current and former spouses, heirs, guardians, executors, administrators, representatives, agents, attorneys, partners, successors, predecessors-in-interest, and assigns) now have or which may have or which may hereafter accrue or otherwise be acquired on account of, or which in any way relate to, grow out of, or are or could have been the subject of the Litigation, the litigation-related investigations conducted by Named Plaintiffs and Defendants and their agents and counsel, or any other allegations, facts, or circumstances described in the Litigation. Notwithstanding the foregoing, Plaintiffs’ Released Claims shall *not* include the right of any Participating Settlement Class Member, Named Plaintiffs, SJHS, or its Related Entities, to

enforce the terms contained in this Settlement Agreement, and shall not include the Claims of Class Members who previously excluded themselves from the Class, or the Claims of Settlement Class Members who timely and validly exclude themselves from the Settlement Class after receiving notice of this Settlement.

1.18 “Related Entities” means any past or present director, officer, employee, agent, attorney, predecessor, successor, parent, subsidiary, division, any affiliate hospital, and any other affiliated entity of SJHS.

1.19 “Second-Round Checks” refers to checks sent to Participating Settlement Class Members pursuant to ¶ 2.2(d).

1.20 “Settlement Administrator” means a nationally recognized and experienced class-action claims administrator to be agreed upon by the Settling Parties, and approved by the Court.

1.21 “Settlement Opt-Out Date” means the date by which Settlement Class Members must mail or otherwise return their requests to be excluded from the Settlement and the Settlement Class, in order for that request to be effective. The postmark date on any envelope containing the exclusion request shall be considered the mailing date of the request.

1.22 “Settlement Opt-Out Period” refers to the time during which Settlement Class Members may provide a valid exclusion request from the Settlement after the Court preliminarily approves the Settlement. The Settlement Opt-Out Period shall run from the time notice of the Settlement is first sent to Settlement Class Members until and including sixty (60) days thereafter.

1.23 “Settling Parties” means, collectively, (i) Class Representatives, individually and on behalf of the Settlement Class Members; and (ii) Defendants.

1.24 “Total Cash Payment” refers to the aggregate value of all First-Round Checks sent to Participating Settlement Class Members pursuant to ¶ 2.2. The Total Cash Payment will equal \$7,500,000.00.

2. Benefits to Class Members

2.1 Stipulation of Settlement Value. The Settling Parties agree, and hereby stipulate, that the value of the settlement outlined in ¶¶ 2, *et seq.* of this Settlement Agreement (excluding separate class representative awards, cost of administration, attorneys’ fees, and attorneys’ costs, which will be determined separately) is approximately \$28,000,000, consisting of: the Total Cash Payment to Participating Settlement Class Members (\$7,500,000); the amount payable to Participating Settlement Class Members for losses and out-of-pocket expenses incurred as a result of the Alleged Breach (\$3,000,000); the value of Class Counsel’s role as the predominant cause of Defendant’s discovery of the Alleged Breach (as described herein); Defendants’ offering of one year of identify-theft and credit monitoring to all Class Members in 2012 (\$4,500,000); and Defendants’ provision of additional relief to Class Members, including but not limited to notice of the Alleged Breach to Class Members, instituting policies to comply with state and federal authorities, and instituting numerous security-related remedial measures (\$13,000,000).

2.2 Cash Payment to the Class. Defendants shall, through the Settlement Administrator, make a cash payment, in the form of a First-Round Check, to each Participating Settlement Class Member. Participating Settlement Class Members are not required to submit a claim form to receive this check. Defendants shall deposit, within thirty (30) days of the Effective Date, \$7,500,000 in an account established by the Settlement Administrator for the purpose of distributing cash payments pursuant to this paragraph. The Settlement Administrator

will issue First-Round Checks to Participating Settlement Class Members during a first round of cash payments and may issue checks during subsequent rounds of payments (pursuant to ¶ 2.2(c)). The total amount of all checks sent during the first round will equal \$7,500,000 (the “Total Cash Payment”).

(a) Amount of First-Round Checks Sent to Participating Settlement Class Members

The amount of each First-Round Check sent to Participating Settlement Class Members will be determined by distributing the Total Cash Payment pro rata among all Settlement Class Members who do not opt out of the Settlement (pursuant to ¶ 5, *et seq*). In no event will the amount of each First-Round Check be less than \$241.35 (\$7,500,000 divided by 31,074—the number of Settlement Class Members as of the date the Settlement Agreement was signed—rounded down to the nearest cent).²

(b) Disbursement of First-Round Checks

Within sixty (60) days of the Effective Date, the Settlement Administrator shall disburse First-Round Checks to each Participating Settlement Class Member. For any First-Round Checks returned to the Settlement Administrator as undeliverable (including, but not limited to, when the intended recipient is no longer located at the address), the Settlement Administrator will make reasonable efforts to find a valid address and resend the First-Round Check within

² The number of Settlement Class Members (31,074) was determined by first removing any duplicate entries from the spreadsheet produced by Defendants in this Litigation with a Bates Number of SJHS00254195 (the excel report created by Kim Jackson used for breach notification), and then removing any individual listed on the spreadsheet who previously submitted a valid opt-out form. Class Members include those individuals contained on the excel report whom Defendants previously asserted and continue to assert did not have medical information publicly accessible online (the 254 individuals whom St. Joseph Health System as identified in their Supplemental Objections & Responses to Plaintiffs’ Third Set of Special Interrogatories, Response to Special Interrogatory No. 45 [listed at Bates Nos. SJHS00280306-311]) and who have not opted out of the Class.

thirty (30) days after the First-Round Check is returned to the Settlement Administrator as undeliverable.

(c) Failure to Cash First-Round Checks

Absent a Participating Settlement Class Member's demonstration of reasonable circumstances for excuse, any First-Round Checks not cashed within ninety (90) days of issuance (based on the date of the check) will be deemed expired. Any Participating Settlement Class Member who does not cash their First-Round 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 First-Round Check, and the Settlement Administrator shall issue a new check so long as said Participating Settlement Class Member is able to show reasonable circumstances to excuse his or her prior failure to cash the First-Round Check. Participating Settlement Class Members are entitled to only one petition on this basis, and any First-Round Checks reissued for such reasonable circumstances will expire within thirty (30) days of issuance (based on the date of the check). Participating Settlement Class Members who do not timely cash their First-Round Checks and fail to petition for a reissuance of the uncashed First-Round Check will be considered as having waived any right to a cash payment under the Settlement Agreement, but will still be able to obtain other benefits provided by the Settlement. In no event will a Participating Settlement Class Member be permitted to cash a prior-round check once the Settlement Administrator has issued checks during a subsequent round (pursuant to ¶ 2.2(d)), or the value of uncashed checks has been paid to a cy pres organization (pursuant to ¶ 2.2(e)).

(d) Issuance of Checks during Subsequent Rounds (if Necessary)

If the total amount of uncashed First-Round Checks (numerator) divided by the number of Participating Settlement Class Members who did cash their First-Round Check (denominator)

is greater than or equal to \$10.00, there will be a second round of cash payments to those Participating Settlement Class Members who cashed their First-Round Checks. The total amount of uncashed checks will be distributed pro rata to those Participating Settlement Class Members who cashed their First-Round Checks in the form of a second check (“Second-Round Check”). These checks will be issued by the Settlement Administrator within ninety (90) days following the deadline by which Participating Settlement Class Members must cash their First-Round Check before waiving their right to a cash payment under the Settlement Agreement.

If the total amount of uncashed Second-Round Checks divided by the number of Participating Settlement Class Members who did cash their Second-Round Check is greater than or equal to \$10.00, there will be a third round of cash payments to those Participating Settlement Class Members who cashed their Second-Round Check. The total amount of uncashed Second-Round Checks will be distributed pro rata to those Participating Settlement Class Members who cashed their Second-Round Check in the form of a third check. This process will continue with as many rounds as is necessary until the total amount of uncashed checks from the most recent round divided by the number of Participating Settlement Class Members who cashed their check during the most recent round is less than \$10.00 per person. At that point, the total dollar value of uncashed checks will be paid to a charitable organization pursuant to ¶ 2.2(e).

(e) Payment of Uncashed Checks to a Cy Pres Organization

If the total amount of uncashed First-Round Checks divided by the number of Participating Settlement Class Members who did cash their First-Round Check is less than \$10.00, then there will be no issuance of Second-Round Checks to Participating Settlement Class Members. Instead, the total amount of uncashed First-Round Checks will be paid to a charitable organization to be agreed upon by the Settling Parties, and approved by the Court, for the

provision of services to victims of identity theft and fraud-related crimes (or to a charitable organization that conducts services the Court deems appropriate given the facts underlying the litigation). If there is more than one round of checks (pursuant to ¶ 2.2(d)), then the total amount of uncashed checks from the most recent round will be paid to a charitable organization pursuant to the same terms when the total amount of uncashed checks from the most recent round divided by the number of Participating Settlement Class Members who did not cash their check during the most recent round is less than \$10.00.

2.3 Other Benefits to the Class. In addition to the cash payment described in ¶ 2.2, each Participating Settlement Class Member shall be entitled to the following benefits, subject to the terms and conditions outlined below:

(a) Reimbursement for Losses Incurred as a Result of the Breach

Defendants shall reimburse each Participating Settlement Class Member up to \$25,000 for any loss that is claimed and shown by the Participating Settlement Class Member to have occurred more likely than not as a result of the Alleged Breach. The Participating Settlement Class Member seeking reimbursement must follow the procedure set forth in in ¶ 2.3(c) below, and demonstrate the following:

1. an actual, documented and unreimbursed loss;
2. that resulted from Identity Theft that resulted more likely than not from the Alleged Breach; and
3. that occurred during the time period from February 1, 2011 through and including January 1, 2017 (the “Claims Period”).

(b) Reimbursement for Out-of-Pocket Expenses

Separate and apart from the obligation to reimburse Participating Settlement Class Members up to \$25,000 per Participating Settlement Class Member pursuant to ¶ 2.3(a), upon submission of a valid claim pursuant to the procedures set forth in ¶ 2.3(c) below, Defendants shall reimburse each Participating Settlement Class Member for the following out-of-pocket expenses reasonably incurred by Participating Settlement Class Members that resulted more likely than not from the Alleged Breach:

1. documented paper-check printing costs of up to \$90 per Participating Settlement Class Member that were incurred prior to the published notice of this Settlement and necessitated by the opening of a new checking account or changing accounts;
2. the cost of obtaining additional credit monitoring and identity theft insurance by a Participating Settlement Class Member beyond the protection previously offered by Defendants, but in no event more than \$20.00 per month, subject to reasonable documentation, and up to a total maximum of \$200.00 per Participating Settlement Class Member;
3. the cost of telephone calls, postage related to inquiries on a Participating Settlement Class Member's bank accounts, financial accounts, mortgage accounts and/or credit reports, lost time (calculated at \$10.00 per hour), the cost of placing a freeze on a Participating Settlement Class Member's credit report, and/or the cost of changing a Participating Settlement Class Member's phone number, up to \$60 per Participating Settlement Class Member, subject to reasonable documentation and a signed statement by the Participating Settlement Class Member that his or her claim is true and correct and is being made under penalty of perjury; and

4. the cost of replacing the Participating Settlement Class Member's driver's license, except in the normal course of renewing one's license.

(c) Submission of Claims

Participating Settlement Class Members seeking reimbursement for either losses pursuant to ¶ 2.3(a) or out-of-pocket expenses pursuant to ¶ 2.3(b) must submit a Claim Submission Packet to the Settlement Administrator. The Claim Submission Packet shall consist of a written Claims Form(s) (attached hereto as Exhibits A and B), together with proof of such losses.

Participating Settlement Class Members seeking losses pursuant to ¶ 2.3(a) must mail their Claims Submission Packet within ninety (90) days following the end of the Claims Period.

Participating Settlement Class Members seeking out-of-pocket expenses pursuant to ¶ 2.3(b) must mail a Claims Submission Packet within ninety (90) days of the Effective Date.

(d) Determination of Claim

Following the submission of any Claims Submission Packet under ¶ 2.3 (a) or (b), the Settlement Administrator shall provide a neutral assessment of the facts and proof, and a recommendation to Defendants for acceptance or rejection of the Claim based on whether, in the opinion of the Settlement Administrator, the Participating Settlement Class Member's losses or out-of-pocket expenses occurred more likely than not as a result of the Alleged Breach. The initial determination of whether the claim should be accepted or rejected rests solely with Defendants, who agree to consider the Settlement Administrator's recommendation in good faith in making such an assessment. Defendants, through the Settlement Administrator, shall have thirty (30) days to accept or reject the Claim after the Settlement Administrator provides Defendants with a recommendation, or to provide the Participating Settlement Class Member in writing, with such copies provided to Co-Lead Class Counsel, with reasonable requests for

additional information (“Claims Supplementation”). If Defendants request such Claim Supplementation, the Participating Settlement Class Member shall have forty-five (45) days to provide it to the Settlement Administrator upon receipt of the request. In the event of unusual circumstances interfering with compliance during that period, the Participating Settlement Class Member may request and, for good cause shown (*e.g.*, illness, the Participating Settlement Class Member is located out of the country, mail failures, lack of cooperation of third parties in possession of required information, etc.), shall be given a reasonable extension during which to comply. Defendants shall have thirty (30) days from their receipt of the Claim Supplementation to accept or reject the claim through the Settlement Administrator.

(e) Dispute Resolution

In the event Defendants deny a claim for either actual losses or out-of-pocket expenses incurred as a result of the Alleged Breach (under either ¶ 2.3 (a) or (b)), Defendants and Participating Settlement Class Members shall first attempt to resolve the dispute on their own without assistance from Class Counsel. Should Defendants and the Participating Settlement Class Member fail to resolve the dispute, the Participating Settlement Class Member has the right to appeal the determination to an independent arbitrator from Judicial Arbitration and Mediation Services (JAMS). Participating Settlement Class Members shall have thirty (30) days following notice of Defendants’ rejection of their claim to request an arbitration date with JAMS. As part of this arbitration, Participating Settlement Class Members will be able to obtain documents from Defendants evidencing whether their confidential medical information was accessed. JAMS shall notify Defendants of the Participating Settlement Class Member’s request for an arbitration date, at which time Defendants shall have thirty (30) days from the date of such notice to provide its reasons for rejection of the claim to JAMS. Thereafter, JAMS shall conduct

a hearing and proceedings to resolve the dispute, in accordance with its rules and procedures. Said hearing and proceedings shall occur in the Participating Settlement Class Member's county of residence, over the telephone, or by ruling on the papers submitted, at the Participating Settlement Class Member's selection. There shall be no class-wide arbitration or adjudication of any such appeals under this section. The appeals will be decided by one neutral arbitrator agreed upon by the Participating Settlement Class Member and Defendants. The decision of JAMS shall be final.

(f) Costs of Dispute Resolution

If the determination of JAMS results in any award to the Participating Settlement Class Member that Defendants did not previously offer prior to the appeal, Defendants shall be responsible for JAMS's cost for the appeal. If JAMS does not award any such amount to the Participating Settlement Class Member, then the Participating Settlement Class Member shall be responsible for JAMS's cost for the appeal.

(g) Payment of Claims

The total amount of aggregate payments made by Defendants for losses incurred as a result of the Alleged Breach (pursuant to ¶ 2.3(a)), and out-of-pocket expenses incurred as a result of the Alleged Breach (pursuant to ¶ 2.3(b)) shall be subject to a cap of \$3,000,000. Payments shall be administered according to a first valid-claim-submitted basis, whereby priority is given to claims based on the date of submission to the Settlement Administrator, with the earliest claims submitted having the top priority. If no claims are made, Defendants have no obligation to pay any amount to any entity under ¶ 2.3 of the Settlement Agreement; if less than \$3,000,000 is paid out on claims submitted, Defendants shall retain the difference between \$3,000,000 and the payments made.

2.4 Stipulation of Additional Value to the Class. Defendants shall provide a declaration acknowledging and stipulating to the following:

- The year of Kroll identity theft and credit monitoring offered to the Class by Defendants in 2012 was a result of actions taken by Class Counsel in notifying Defendants and the Class about the Alleged Breach, and is a benefit to all Class Members resulting from the Litigation and Settlement. The amount of that benefit as provided in the accompanying declaration of Defendants' representative, Karen Mihelic (Exhibit D) is valued at over \$4,500,000 by multiplying the value of one year of identity theft and credit monitoring using the plan Defendants offered per person (\$12.00 per month) times the number of individuals to whom the offer was sent (approximately 31,802).
- Class Counsel was the catalyst and predominant cause of Defendant's discovery of the Alleged Breach, provision of relief to Participating Settlement Class Members (in addition to the Total Cash Payment and the year of identity theft and credit monitoring), notice to the Class Members and state and federal regulatory authorities, including but not limited to the Department of Health and Human Services, and institution of health-care information and security-related remedial measures. The amount of that benefit as provided in the accompanying declaration of Defendants' representative, Karen Mihelic (Exhibit D), is valued at over \$13,000,000.

2.5 Appointment of Guardian ad Litem. Plaintiffs and Defendants agree that a Guardian ad Litem shall be appointed for those Settlement Class Members who are minors for purposes of the settlement. For purposes of the Settlement, a Settlement Class Member who is

less than eighteen (18) years of age at the time the Court grants preliminary approval is considered a “Minor Settlement Class Member.” The Settling Parties will meet and confer over the selection of a Guardian ad Litem to present to the Court for approval. Class Counsel shall be responsible for the costs of the Guardian ad Litem.

3. Order of Preliminary Approval and Publishing of Notice of a Final Approval Hearing

3.1 As soon as practicable after the execution of the Settlement Agreement, Co-Lead Class Counsel and Lead Counsel for Defendants shall jointly submit this Settlement Agreement to the Court for preliminary approval. Co-Lead Class Counsel shall also file a joint motion for preliminary approval of the settlement with the Court and apply for entry of an order (the “Order of Preliminary Approval”), in the form attached hereto as Exhibit E, or an order substantially similar to such form in both terms and cost, requesting preliminary approval of the Settlement as set forth herein.

3.2 Co-Lead Class Counsel and Defendants shall request that after notice of the Settlement is given (pursuant to ¶¶ 4, *et seq.*), the Court should hold a hearing (the “Final Approval Hearing”) and grant final approval of the Settlement set forth herein.

3.3 Co-Lead Class Counsel and Defendants further agree that the proposed Order of Preliminary Approval shall provide, subject to Court approval, that, pending the final determination of the fairness, reasonableness, and adequacy of the Settlement set forth in the Settlement Agreement, no Participating Settlement Class Member shall institute, commence, or prosecute against Defendants any of Plaintiffs’ Released Claims in any action or proceeding in any court or tribunal either directly, representatively, or in any other capacity.

4. Notice of Settlement

4.1 Within ten (10) days of entry of the Order of Preliminary Approval, Co-Lead Class Counsel shall provide the Settlement Class Member List to the Settlement Administrator, pursuant to a HIPAA Business Associate Agreement between Co-Lead Class Counsel and the Settlement Administrator to maintain confidentiality.

4.2 Notice of the Settlement shall be mailed to all Settlement Class Members by the Settlement Administrator within twenty (20) days of entry of the Order of Preliminary Approval by the Court. The Notice of Settlement shall be substantially in the form attached as hereto as Exhibit F, subject to approval by the Court. The Parties agree that providing Notice by direct mail to all Settlement Class Members is the best, fairest, and most reasonable notice practicable under the circumstances.

4.3 Any Notice that is returned as nondeliverable with a forwarding address shall promptly be remailed by the Settlement Administrator to such forwarding address. To the extent that any Notices of Settlement are returned as nondeliverable without a forwarding address, the Settlement Administrator shall conduct a reasonable search to locate valid address information for the Class Member or intended recipients of such Notice, and promptly re-mail the Notice of Settlement, as applicable, to any Settlement Class Members for whom new address information is identified.

4.4 The Settlement Administrator shall construct and maintain a settlement website in conformity with the W3C Worldwide Web Content Accessibility Guidelines (Version No.1), Priorities 1 and 2, and shall maintain and update the content of the website throughout the Claims Period, with available access to the Summary Notice of Settlement, Notice of Settlement, and Claim Forms approved by the Court, this Settlement Agreement, and other pertinent court filings in this Litigation. The settlement website shall contain a question and answers section

explaining the relevant terms of the settlement and how to properly fill out and submit the requisite claim forms and necessary documentation. Additionally, the settlement website shall prominently display an appropriately recognized third-party verification on it (VeriSign, etc.) verifying the website's authenticity and legitimacy. The Settlement Administrator will also provide copies of the Summary Notice of Settlement, Notice of Settlement, Claim Forms approved by the Court, and Settlement Agreement to those Participating Settlement Class Members so requesting, either over the telephone or in writing. Prior to the hearing of the motion for final approval of the Settlement, Co-Lead Class Counsel and Defendants shall cause to be filed with the Court an appropriate affidavit or declaration with respect to complying with this provision of notice.

4.5 The Settling Parties shall provide notice to the Participating Settlement Class Members of the Judgment and Final Approval Order once entered by the Court by publishing a copy of the Judgment and Final Approval Order on the settlement website established by the Settlement Administrator pursuant to ¶ 4.4.

5. Opt-Out Procedures

5.1 Each Person desiring to exclude themselves from the Settlement and Settlement Class shall timely submit, via U.S. Mail, written notice of such intent to the designated Post Office box established for said purpose. The written notice must clearly manifest the intent to be excluded from the Settlement Class, and must be signed by the Settlement Class Member, or the Settlement Class Member's parent or guardian (if the Settlement Class Member is a minor). Signature by an authorized representative is also acceptable if proper and adequate documentation of the authorization accompanies the opt-out. To be effective, written notice must be postmarked by the Settlement Opt-Out Date.

5.2 All Persons who submit valid and timely notices of their intent to be excluded from the Settlement, as set forth in ¶ 5.1 above, shall not receive any benefits of this Settlement Agreement, including, but not limited to, any cash payment (as described in ¶ 2.2), or reimbursement for Identity Theft losses or out-of-pocket expenses incurred as a result of the Alleged Breach (as described in ¶ 2.3), nor be bound by the terms of this Settlement Agreement. Settlement Class Members who do not request to be excluded from the Settlement in the manner set forth in ¶ 5.1 above, except as otherwise ordered by the Court, shall be bound by the terms of this Settlement Agreement and Judgment entered thereon.

6. Objection Procedures

6.1 Any Participating Settlement Class Member desiring to object to the Settlement shall submit a timely written notice of his or her objection. Such notice shall state:

- the objector's full name, address, telephone number, and e-mail address;
- a written statement of all grounds for the objection, accompanied by any legal support for the objection, and any evidence the Participating Settlement Class Member wishes to introduce in support of the objection;
- the identity of all counsel representing the objector;
- a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and
- the objector's signature signed under oath and penalty of perjury or, if legally incapacitated, the signature of their duly authorized representative (along with documentation setting forth such legal incapacitation and representation).

6.2 To be timely, written notice of an objection in the correct format above must be mailed to the Settlement Administrator twenty-one (21) days prior to the date set in the Notice for the Final Approval Hearing, and also mailed to each of the following:

- Co-Lead Counsel, Daniel S. Robinson, Robinson Calcagnie Robinson Shapiro Davis, Inc., 19 Corporate Plaza, Newport Beach, CA 92660;
- Co-Lead Counsel, Jeremiah Frei-Pearson, Finkelstein, Blankinship, Frei-Pearson & Garber, 1311 Mamaroneck Avenue, Suite 220, White Plains, New York, 10605; and
- Defendants' Lead Counsel, Jeffrey Reeves, Gibson Dunn & Crutcher, LLP, 3161 Michelson Drive, Irvine, CA 92612.

6.3 Except as otherwise ordered by the Court, any Participating Settlement Class Member who fails to comply with the provisions of ¶¶ 6.1 and 6.2 shall waive and forfeit any and all rights the Participating Settlement Class Member may have to appear separately and/or to object to the Settlement, and shall be bound by all the terms of the Settlement Agreement and by all proceedings, orders, and judgments in the Litigation.

6.4 Any Settlement Class Member who opts out of the Settlement shall not have standing to object to the Settlement.

7. Plaintiffs' Counsel's Attorneys' Fees, Costs, and Expenses, and Incentive Awards

7.1 After entering into a Memorandum of Understanding containing the material settlement terms herein, the Settling Parties entered into arm's length negotiations concerning attorneys' fees, reimbursement of attorneys' costs, and incentive awards to Class Representatives.

7.2 On the issue of the proper amount of any attorneys' fees and costs awarded to Plaintiffs' Counsel, Defendants agree that they will not oppose an application by Plaintiffs' Counsel for an award of attorneys' fees and costs up to Seven Million, Four Hundred and Fifty Thousand Dollars (\$7,450,000), that these amounts shall be paid by Defendants separately and independently from other benefits provided to Settlement Class Members under this Settlement Agreement, and that these amounts are inclusive of all fees, costs, and expenses of Plaintiffs' Counsel, past and future, in connection with the Litigation, including all costs associated with administering the Settlement. The attorneys' fees and costs in the amount awarded by the Court shall be paid directly to Co-Lead Class Counsel by Defendants within thirty (30) days after the Effective Date.

7.3 On the issue of the proper amount of any incentive awards for Class Representatives, Defendants agree that they will not oppose an application by Plaintiffs' Counsel for payment of incentive awards for Class Representatives in the total of \$50,000, as follows: \$15,000 to Plaintiff Danna Graewingholt; \$8,750 to Plaintiff Jeannie Hambric; \$8,750 to Plaintiff Linda Kerkow; \$8,750 to Plaintiff Desiree Ortiz; and \$8,750 to Plaintiff Deanna Debaeke. Defendants agree that the award of Fifty Thousand Dollars (\$50,000) shall be paid by Defendants separately and independently from other benefits provided to Settlement Class Members under this agreement. All incentive awards to each of the five Class Representatives provided by the Court shall be paid by Defendants to Co-Lead Class Counsel within thirty (30) days after the Effective Date, to be thereafter distributed to Class Representatives.

7.4 The award of attorneys' fees, reimbursement of attorneys' costs, and incentive awards to Class Representatives are subject to Court approval.

7.5 Within thirty (30) days of the Effective Date, Defendants shall pay the attorneys' fees, reimbursement of attorneys' costs, as ordered by the Court pursuant to ¶¶ 7.1-7.2, to Co-Lead Class Counsel. Co-Lead Class Counsel, in their sole discretion, to be exercised reasonably, shall allocate and distribute the amount of attorneys' fees and reimbursement of attorneys' costs that is awarded by the Court amongst Plaintiffs' Counsel. The attorneys' fees and reimbursement of attorneys' costs provided for under this paragraph shall be paid in lieu of any applicable fee-shifting statute. Plaintiffs' Counsel agree that Defendants are hereby released from any and all ensuing disputes amongst Plaintiffs' Counsel regarding the allocation and distribution of attorneys' fees and reimbursement of attorneys' costs

8. Administration of Claims

8.1 The Settlement Administrator shall calculate and administer the checks issued pursuant to ¶ 2.2. Within ninety (90) days of the Effective Date, the Settlement Administrator will certify to the Court that checks have been mailed to the applicable Participating Settlement Class Members by submitting a declaration, based on the personal knowledge of the declarant(s), filed with the Court and served on Co-Lead Class Counsel and Defendants' Counsel.

8.2 The Settlement Administrator shall provide Co-Lead Class Counsel with reports of the following:

- the number of checks that are sent to Participating Settlement Class Members during each round of cash payments;
- the dollar amount of checks that are sent to Participating Settlement Class Members during each round of cash payments;

- the number of Participating Settlement Class Members who do and do not cash their checks during each round of cash payments, and the dollar amount of those checks; and
- the amount paid to a charitable organization, if any, following the final round of cash payments.

8.3 The Settlement Administrator shall administer the claims submitted under ¶ 2.3, except as provided otherwise therein. The Settlement Administrator shall provide Co-Lead Class Counsel with reports of the claims for reimbursement of losses and out-of pocket expenses made by Participating Settlement Class Members.

8.4 Co-Lead Class Counsel shall have the right to review and obtain supporting documentation and challenge reports provided by the Settlement Administrator if they believe them to be inaccurate or inadequate.

8.5 Except as otherwise ordered by the Court, all Participating Settlement Class Members who do not cash a settlement check that is sent to them prior to the expiration of said check, or within such other period as may be ordered by the Court, or otherwise allowed, including under the extenuating circumstances as outlined above, shall be forever barred from receiving a cash payment pursuant to this Settlement, but will in all other respects be subject to and bound by the provisions of the Settlement Agreement, the releases contained herein, and the Judgment, and will be permitted to obtain other benefits available under the Settlement Agreement. Likewise, all Participating Settlement Class Members who fail to submit a Claim Form for any benefits hereunder within the time frames set forth herein, or within such other period as may be ordered by the Court, or otherwise allowed, including under the extenuating circumstances as outlined above, shall be forever barred from receiving any benefits pursuant to

the Settlement, but will in all other respects be subject to and bound by the provisions of the Settlement Agreement, the releases contained herein, and the Judgment.

8.6 No Person shall have any claim against Defendants, Defendants' counsel, Co-Lead Class Counsel, or Plaintiffs' Counsel based on distributions of benefits made substantially in accordance with the Settlement Agreement and/or further order(s) of the Court.

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

9.1 The Effective Date of the Settlement shall be the date on which the Final Approval Order has been entered by the Court and has become Final. "Final" means (a) if no objection is raised to the proposed settlement at the Final Approval Hearing, the date on which the Final Approval Order is entered; or (b) if any objections are raised to the proposed Settlement at the Final Approval Hearing, the latest of (i) the expiration date of the time for the filing or notice of any appeal from the Final Approval Order, (ii) the date of final affirmance of any appeal of the Final Approval Order, (iii) the expiration of the time for, or the denial of, a petition for writ of certiorari to review the Final Approval Order and, if the certiorari is granted, the date of final affirmance of the Final Approval Order following review pursuant to that grant, or (iv) the date of final dismissal of any appeal from the Final Approval Order or the final dismissal of any proceeding on certiorari to review the Final Approval Order and Judgment.

9.2 In the event that the Settlement Agreement is not approved by the Court or the Settlement set forth in the Settlement Agreement is terminated in accordance with its terms, (i) the Settling Parties shall be restored to their respective positions in the Litigation, and shall jointly request that all scheduled litigation deadlines be reasonably extended by the Court so as to avoid prejudice to any Settling Party or litigant, which extension shall be subject to the decision of the Court, (ii) the terms and provisions of the Settlement Agreement shall have no

further force or effect with respect to the Settling Parties and shall not be used in the Litigation or in any other proceeding for any purpose, and (iii) any judgment or order entered by the Court in accordance with the terms of the Settlement Agreement shall be treated as vacated, *nunc pro tunc*. In the event the Settlement Agreement does not receive final approval by the Court or the Settlement is terminated in accordance with its terms, Defendants and Plaintiffs' Counsel shall each be responsible for 50% of any and all fees and costs charged or incurred by the Settlement Administrator prior to such termination of the Settlement. Expressly overruling any statement in this Settlement Agreement to the contrary, no order of the Court or modification or reversal on appeal of any order changing the amount of attorneys' fees, reimbursement of attorneys' costs, awards to Class Representatives, and/or expenses awarded to Co-Lead Class Counsel shall constitute grounds for cancellation or termination of the Settlement Agreement.

10. Releases

10.1 The Settling Parties agree that, in consideration of the benefits provided under the Settlement Agreement, Participating Settlement Class Members (along with all of their current and former spouses, heirs, guardians, executors, administrators, representatives, agents, partners, successors, predecessors-in-interest, and assigns) shall be deemed to have released and forever discharged Defendants from any and all of Plaintiffs' Released Claims, except for enforcement of the Settlement Agreement (pursuant to ¶ 1.17). The Release set forth shall apply only to those Claims alleged in the Litigation or arising out of or related to the Alleged Breach, and shall in no way be construed as a release of Claims and/or actions that Settlement Class Members (including those who do not opt out of the Settlement) have now, or in the future may have, known or unknown, against Defendants unrelated to the Litigation or the Alleged Breach.

10.2 Upon the Effective Date, Defendants shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged Class Representatives, each and all of the Participating Settlement Class Members, Co-Lead Class Counsel, and all other Plaintiffs' Counsel who have consented to and joined in the Settlement, from all Claims, known or unknown, based upon or arising out of the institution, prosecution, assertion, settlement and/or resolution of this Litigation, except for enforcement of the Settlement Agreement as to such matters as pertain to each of them.

10.3 Except as to such rights or claims as may be created by this Settlement Agreement, Defendants and the Class Representatives, including their family members and/or agents, (as individuals and not as representatives of the class) shall be deemed upon the Effective Date to have fully released and discharged each other from any and all Claims, defenses, cross-claims, of every nature whatsoever, whether known, unknown, fixed or contingent, which Defendants, the Class Representatives, including their family members and/or agents, and each of them, at any time heretofore had, owned, held or claimed to have, own or hold own or hold against each other or their counsel. Further, the Settling Parties mutually release Gibson Dunn Crutcher, LLP, Robinson Calcagnie Robinson Shapiro Davis, Inc., Finkelstein, Blankinship, Frei-Pearson & Garber, LLP, each of the firms appointed as members of Plaintiffs' Steering Committee, and all of their representatives from any and all claims, known and unknown related to the prosecution or defense of this Litigation.

10.4 The Settling Parties acknowledge and agree that the releases set forth in ¶¶ 10.1-10.3 of this Agreement are general releases of all Claims alleged in the Litigation or arising out of or related to the Alleged Breach. The Settling Parties acknowledge and agree that it is possible that unknown losses or claims exist. The Settling Parties waive and assume the risk of

any and all claims for damages which exist as of the date of this Settlement Agreement, but which they do not know or suspect to exist, whether through ignorance, oversight, error, negligence or otherwise, and which if known would materially affect the Settling Parties decisions to enter into this Settlement Agreement. [REDACTED]

DSK

JHR

The Settling Parties agree that the terms of the Settlement Agreement have been accepted as a complete compromise and settlement of matters involving disputed issues of law and fact. The Settling Parties assume the risk that the facts or law may be other than their belief.

11. Miscellaneous Provisions

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

11.2 The Settling Parties intend this Settlement to be a final and complete resolution of all disputes, claims, and causes of action by and between them with respect to the Litigation in

any way whatsoever. The Settlement compromises claims that are contested and shall not be deemed an admission by any Settling Party as to the merits of any claim or defense. The Settling Parties each agree that the Settlement was negotiated in good faith by the Settling Parties, and reflects a settlement that was reached voluntarily after consultation with competent legal counsel. The Settling Parties reserve their right to rebut, in a manner that such Settling Party determines to be appropriate, any contention made in any public forum that the Litigation was brought or defended in bad faith or without a reasonable basis.

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

11.4 Plaintiffs and Defendants and their respective counsel agree to refrain from any disparagement, defamation, libel, or slander of the other party and their parents or subsidiaries, or any of their current or former employees, or from authorizing any agent or representative to make or express such a comment, view or opinion, except as may be compelled by law.

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

11.6 This Settlement Agreement, together with the Exhibits attached hereto, constitutes the entire agreement by, between, and among the Settling Parties hereto and no representations, warranties, or inducements have been made to any party concerning the Settlement Agreement other than the representations, warranties, and covenants contained and memorialized in such document. Except as otherwise provided herein, each Settling Party shall bear their own attorneys' fees, costs, and expenses.

11.7 Co-Lead Class Counsel, on behalf of the Settlement Class, are expressly authorized by Class Representatives to take all appropriate actions required or permitted to be taken by the Settlement Class pursuant to the Settlement Agreement to effectuate its terms.

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

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

11.10 The Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Settling Parties hereto.

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

11.12 This Settlement Agreement shall be considered to have been negotiated, executed and delivered, and to be wholly performed, in the State of California, and the rights and obligations of the Settling Parties to the Settlement Agreement shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of California without giving effect to that State's choice of law principles.

11.13 As used herein, "he" means "he, she, or it;" "his" means "his, hers, or its," and "him" means "him, her, or it."

11.14 All dollar amounts are in United States dollars, unless otherwise expressly stated.

11.15 All agreements made and orders entered during the course of the Litigation relating to the confidentiality of information shall survive this Settlement Agreement.

IN WITNESS WHEREOF, the Settling Parties hereto have caused the Settlement Agreement to be executed, by their duly authorized agents.

Dated: September 11, 2015

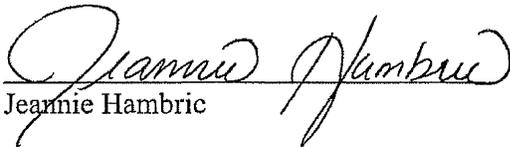
Co-Lead Class Counsel



Daniel S. Robinson
Robinson Calcagnie Robinson Shapiro
Davis, Inc.

Jeremiah Frei-Pearson
Finkelstein, Blankinship, Frei-Pearson &
Garber, LLP

Class Representative Plaintiffs



Jeannie Hambric

Deanna DeBaeke

Danna Graewingholt

Linda Kerkow

Desiree Ortiz

Dated: September ____, 2015

*Duly Authorized Signatory for St. Joseph
Health System and all Defendants*

Shannon Dwyer, Esq.
Executive Vice President, General Counsel
St. Joseph Health System
3345 Michelson Drive, Suite 100
Irvine, CA 92612

Dated: September 10, 2015

Dated: September ____, 2015

Dated: September ____, 2015

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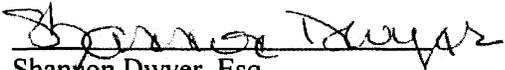
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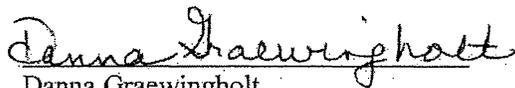
Class Representative Plaintiffs

Jeannie Hambric

Dated: September ____, 2015

Deanna DeBaeke

Dated: September ____, 2015


Danna Graewingholt

Dated: September 10, 2015

Linda Kerkow

Dated: September ____, 2015

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Finkelstein, Blankinship, Frei-Pearson &
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Class Representative Plaintiffs

Jeannie Hambric

Dated: September ____, 2015



Deanna DeBaeke

Dated: September ¹⁰ ____, 2015

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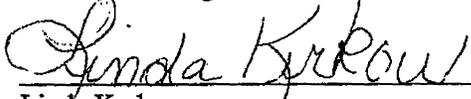
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Dated: September ____, 2015

*Duly Authorized Signatory for St. Joseph
Health System and all Defendants*

Shannon Dwyer, Esq.
Executive Vice President, General Counsel
St. Joseph Health System
3345 Michelson Drive, Suite 100
Irvine, CA 92612

Dated: September ____, 2015.

Dated: September ____, 2015

Dated: September ____, 2015

Dated: September 9/10, 2015

Dated: September ____, 2015

IN WITNESS WHEREOF, the Settling Parties hereto have caused the Settlement Agreement to be executed, by their duly authorized agents.

Dated: September ____, 2015

Dated: September ____, 2015

Co-Lead Class Counsel

Duly Authorized Signatory for St. Joseph Health System and all Defendants

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Robinson Calcagnie Robinson Shapiro
Davis, Inc.

Shannon Dwyer, Esq.
Executive Vice President, General Counsel
St. Joseph Health System
3345 Michelson Drive, Suite 100
Irvine, CA 92612

Jeremiah Frei-Pearson
Finkelstein, Blankinship, Frei-Pearson &
Garber, LLP

Class Representative Plaintiffs

Jeannie Hambric

Dated: September ____, 2015

Deanna DeBaeke

Dated: September ____, 2015

Danna Graewingholt

Dated: September ____, 2015

Linda Kerkow

Dated: September ____, 2015



Desiree Ortiz

Dated: September 10, 2015

Exhibit A

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF ORANGE
ST. JOSEPH HEALTH SYSTEM MEDICAL INFORMATION CASES, JCCP 4716

REIMBURSEMENT OF IDENTITY THEFT LOSSES CLAIM FORM

Participating Settlement Class Members are entitled to recover reimbursement of actual, documented and unreimbursed “identity theft” losses occurring between February 1, 2011 and January 1, 2017, that the Participating Class Member can show were caused by the Alleged Breach. “Identity theft” is defined as “the unlawful use of a Participating Settlement Class Member’s name, address, Social Security number (SSN), bank or credit card account number, medical information, or other identifying information without the Participating Settlement Class Member’s knowledge.” Losses exclude any charges authorized by the Participating Settlement Class Member. The “Alleged Breach” refers to the purported data breach that is the subject of this lawsuit, whereby certain information—including diagnoses lists, active medication lists, lab results, medication allergies, body mass index (BMI), blood pressure, smoking status, advance directive status, and demographic information, including spoken language, ethnicity, race, gender and birth date—of several-thousand patients from SJHS hospitals was publicly accessible on the Internet between approximately February 2011 and February 2012. Additional information is contained in the Detailed Notice and the Settlement Agreement, both of which are available at www.SJHSdatabreachclassaction.com or by calling 1-877-219-9782.

To receive reimbursement of your identity theft losses you must: (1) provide all information required below, (2) submit all documentation that supports your claim of theft (such as receipts, correspondence, police reports, stolen property reports, insurance claims, bank statements, etc.), and (3) submit this form with your supporting documentation to the following address:

St. Joseph Health System Data Breach Settlement Administrator
P.O. Box 43356
Providence, RI 02940-3356

If you have any questions, call 1-877-219-9782 to speak with a representative or go to www.SJHSdatabreachclassaction.com for more information.

Deadlines: The deadline to submit an identity theft loss claim will be ninety (90) days following January 1, 2017, or April 1, 2017, the final deadline for submitting all claims under the settlement.

<u>CLAIMANT INFORMATION</u> <i>Please Type or Print in the Boxes Below; Do NOT use Red Ink, Pencil, or Staples</i>		
First Name	MI	Last Name
<input type="text"/>	<input type="text"/>	<input type="text"/>
Mailing Address (Street, PO Box, Suite or Office Number, as applicable)		
<input type="text"/>		
City	State	Zip Code
<input type="text"/>	<input type="text"/>	<input type="text"/>

<u>ADDITIONAL INFORMATION</u>	
Last 4 Digits of Social Security Number	
<input type="text"/>	
Email Address (optional)	
<input type="text"/>	@ <input type="text"/>
(Username)	(Domain name)
Telephone Number (optional)	
<input type="text"/>	- <input type="text"/>
<input type="text"/>	- <input type="text"/>

Questions? Call 1-877-219-9782 or visit www.SJHSdatabreachclassaction.com

By filling in the information herein and requesting reimbursement of an identity theft loss(es), you are asserting under penalty of perjury that you believe such loss (1) is an actual, documented and unreimbursed loss, (2) more likely than not resulted from identity theft caused by the Alleged Breach, and (3) occurred during the time period from February 1, 2011, through and including January 1, 2017.

You may request up to \$25,000. Only one (1) form is needed for multiple losses incurred from the same incident. If you are claiming losses from more than one incident of identity theft, please complete a separate claim form for each.

Amount requested:

\$, .

Documentary proof must be submitted to support your exact claim amount.

Please provide a brief description of the fraud or identity theft you are experiencing. (You may attach additional pages if necessary.)

SIGNATURE & CERTIFICATION

I hereby declare under penalty of perjury that I believe that the information I am providing in support of my claim is true and correct. I further certify that any documentation that I have submitted in support of my claim consists of unaltered documents in my possession.

Signature:

Date:

-

-

(MM)

(DD)

(YY)

Print Name: _____

Mail your claim to: St. Joseph Health System Data Breach Settlement Administrator
P.O. Box 43356
Providence, RI 02940-3356

Questions? Call 1-877-219-9782 or visit www.SJHSdatabreachclassaction.com

Exhibit B

REIMBURSEMENT OF OUT-OF-POCKET EXPENSES CLAIM FORM

Participating Settlement Class Members are entitled to reimbursement of certain out-of-pocket expenses that the Participating Class Member can show were reasonably incurred and incurred as a result of the Alleged Breach. The "Alleged Breach" refers to the purported data breach that is the subject of this lawsuit, whereby certain information—including diagnoses lists, active medication lists, lab results, medication allergies, body mass index (BMI), blood pressure, smoking status, advance directive status, and demographic information, including spoken language, ethnicity, race, gender and birth date—of several-thousand patients from SJHS hospitals was publicly accessible on the Internet between approximately February 2011 and February 2012. Additional information is contained in the Detailed Notice and Settlement Agreement, available at www.SJHSdatabreachclassaction.com or by calling 1-877-219-9782.

To receive reimbursement of out-of-pocket expenses listed below you must (1) provide all information required below, (2) submit all documentation that supports your claim (such as receipts, check printing costs, receipts showing credit monitoring and identity theft insurance that you purchased, documentation regarding the replacement of your driver's license, telephone charges and postage expenses incurred handling your identity theft, time ledgers for lost wages, documents showing a freeze was placed on your credit report, records or communications documenting the change of your phone number, police reports, stolen property reports, insurance claims, bank statements, etc.), and (3) submit this form with your supporting documentation to the following address:

St. Joseph Health System Data Breach Settlement Administrator
P.O. Box 43356
Providence, RI 02940-3356

If you have any questions, call 1-877-219-9782 to speak with a representative or go to www.SJHSdatabreachclassaction.com for more information.

Deadlines: The deadline to submit claims for reimbursement for out-of-pocket expenses incurred is ninety (90) days after the Effective Date (the Effective Date requires the expiration of appeal rights, which occurs 60 days after the mailing of the Notice of Entry of Judgment, or 180 days from the entry of judgment, whichever is earlier). For example, if the Court grants Final Approval at the [redacted], 2015 Final Fairness Hearing and mails the Notice of Entry of Judgment, the earliest deadline to submit a reimbursement for out-of-pocket expenses incurred will be [redacted], 2016.

Upon Final Approval of the Settlement, the deadline to submit claims for out-of-pocket expenses will be posted on the website www.SJHSdatabreachclassaction.com. You may also call 1-877-219-9782 if you have any questions regarding your deadlines.

CLAIMANT INFORMATION

*Please Type or Print in the Boxes Below; Do **NOT** Use Red Ink, Pencil, or Staples*

First Name	MI	Last Name
<input type="text"/>	<input type="text"/>	<input type="text"/>

Mailing Address (Street, PO Box, Suite or Office Number, as applicable)

<input type="text"/>

City	State	Zip Code
<input type="text"/>	<input type="text"/>	<input type="text"/>

ADDITIONAL INFORMATION

Last 4 Digits of Social Security Number

<input type="text"/>

Email Address (optional)

<input type="text"/>	@	<input type="text"/>
(Username)		(Domain name)

Telephone Number (optional)

<input type="text"/>	-	<input type="text"/>	-	<input type="text"/>
----------------------	---	----------------------	---	----------------------

By filling in the information herein and requesting reimbursement of certain out-of-pocket expenses, you are asserting under penalty of perjury that you believe such expenses were incurred (1) reasonably, (2) more likely than not as result of the Alleged Breach, and (3) on or before 90 days following the Effective Date, or [] , 2015 (or [] , 2015 if for check printing expenses).

PLEASE CHOOSE ONE OR MORE OF THE FOLLOWING:

• **CHECK PRINTING (NOT TO EXCEED \$90.00)**

I request reimbursement for paper check printing costs due to opening a new checking account or changing accounts between February 1, 2012, and [] , 2015, and have included documentation of such expenses. These expenses were incurred because of the Alleged Breach, and not incurred as the result of ordering checks for an existing account, or changing accounts for any other reason other than the Alleged Breach.

Amount requested (Not to exceed \$90.00): \$ [] [] . [] []

• **CREDIT MONITORING AND IDENTITY THEFT INSURANCE (NOT TO EXCEED \$200.00)**

I have included reasonable documentation of such expenses.

Amount requested (Not to exceed \$20.00 monthly and \$200.00 total): \$ [] [] [] . [] []

• **DRIVER'S LICENSE**

I request reimbursement for the cost of replacing a driver's license (except in the normal course of renewing my license) incurred since February 1, 2012.

Amount requested: \$ [] [] . [] []

• **MISCELLANEOUS EXPENSES and LOST TIME (NOT TO EXCEED \$60.00)**

I request reimbursement of the following expenses, and have included reasonable documentation of such expenses.

The cost of telephone calls: \$ [] [] . [] []

Postage related to inquiries on my bank, financial, and mortgage accounts and/or credit reports: \$ [] [] . [] []

Lost time (calculated at \$10.00 per hour): \$ [] [] . [] []

The cost of placing a freeze on my credit report: \$ [] [] . [] []

The cost of changing my phone number: \$ [] [] . [] []

Total Amount requested for Miscellaneous Expenses and Lost Time (not to exceed \$60.00): \$ [] [] . [] []

SIGNATURE & CERTIFICATION. I hereby declare under penalty of perjury that I believe that the information I am providing in support of my claim is true and correct. I further certify that any documentation that I have submitted in support of my claim consists of unaltered documents in my possession.

Signature: []

Date: [] [] - [] [] - [] []
(MM) (DD) (YY)

Print Name: _____

Mail your claim to: St. Joseph Health System Data Breach Settlement Administrator
P.O. Box 43356
Providence, RI 02940-3356

Questions? Call 1-877-219-9782 or visit www.SJHSdatabreachclassaction.com

Exhibit C

1 Daniel S. Robinson, SBN 244245
2 Wesley K. Polischuk, SBN 254121
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4 **SHAPIRO DAVIS, INC.**
5 19 Corporate Plaza Drive
6 Newport Beach, California 92660
7 Telephone: (949) 720-1288
8 Facsimile: (949) 720-1292
9 drobinson@rcrsd.com
10 wpolischuk@rcrsd.com

11 *Co-Lead Counsel for the Class*

12 Jeffrey H. Reeves, SBN 156648
13 **GIBSON, DUNN & CRUTCHER LLP**
14 3161 Michelson Drive
15 Irvine, CA 92612-4412
16 Telephone: (949) 451-3800
17 Facsimile: (949) 451-4220
18 jreeves@gibsondunn.com

19 *Defendants' Lead and Liaison Counsel*

20 SUPERIOR COURT OF THE STATE OF CALIFORNIA

21 COUNTY OF ORANGE – CIVIL COMPLEX

22 Coordination Proceeding
23 Special Title (Rule 3.550)

Judicial Council Coordinated
Proceeding No. 4716

24 **ST. JOSEPH HEALTH SYSTEM MEDICAL**
25 **INFORMATION CASES**

Coordination Trial Judge:
Honorable Kim G. Dunning
Department CX 104

26 DEANNA DEBAEKE, DANNA
27 GRAEWINGHOLT, JEANNIE HAMBRIC,
28 LINDA KERKOW, LOBA MOON, and
DESIREE ORTIZ, individually and on behalf of
all others similarly situated,

[PROPOSED] ORDER GRANTING FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT AND ENTERING JUDGMENT

Plaintiffs,

vs.

ST. JOSEPH HEALTH SYSTEM, et al.,

Defendants.

Before the Court is the Joint Motion for Final Approval of Class Action Settlement. Plaintiffs Deanna Debaeke, Danna Graewingholt, Jeannie Hambric, Linda Kerkow, and Desiree Ortiz

1 (“Representative Plaintiffs”), individually and on behalf of the Participating Settlement Class
2 Members¹, by and through Daniel S. Robinson, Robinson Calcagnie Robinson Shapiro Davis, Inc., and
3 Jeremiah Frei-Pearson, Finkelstein, Blankinship, Frei-Pearson & Garber, LLP (“Co-Lead Class
4 Counsel”); and Defendants St. Joseph Health System, Mission Hospital Regional Medical Center, St.
5 Jude Hospital, Queen of the Valley Medical Center, Santa Rosa Memorial Hospital, Petaluma Valley
6 Hospital Auxiliary, The Auxiliary of Mission Hospital Laguna Beach, The Auxiliary of Mission
7 Hospital Mission Viejo, Saint Joseph Hospital of Orange, Saint Joseph Hospital of Eureka and
8 Redwood Memorial Hospital of Fortuna (collectively, “Defendants”), by and through Jeffrey H.
9 Reeves, Gibson Dunn, LLP, Defendants’ Lead and Liaison Counsel, request that the Court enter an
10 order:

11 (1) finding that the Settlement Agreement is fair, reasonable, adequate, and the product of
12 investigation, litigation and arm’s-length negotiation;

13 (2) granting final approval of the Settlement Agreement;

14 (3) granting Representative Plaintiffs’ unopposed request for total incentive awards of
15 \$50,000 to Representative Plaintiffs, distributed as follows:

16 a. \$15,000 to Plaintiff Danna Graewingholt;

17 b. \$8,750 to Plaintiff Jeannie Hambric

18 c. \$8,750 to Plaintiff Linda Kerkow

19 d. \$8,750 to Plaintiff Desiree Ortiz; and

20 e. \$8,750 to Plaintiff Deanna Debaeke;

21 (4) denying any objections as being without merit and/or frivolous.

22 Having reviewed and considered the Settlement Agreement and the Motion for Final Approval
23 of Class Action Settlement (“Motion”), having considered all submissions and heard all arguments of
24 counsel with respect to the Motion, and GOOD CAUSE APPEARING, the Court FINDS as follows:

25
26
27 ¹ “Participating Settlement Class Member” means any individual who (1) falls within the definition of the Class pursuant to
28 the Court’s December 5, 2014 Order Granting Plaintiffs’ Motion for Class Certification, and (2) did not timely and validly
exclude himself or herself from either (a) the Class prior to the Court’s Order Granting Preliminary Approval of the
Settlement, or (b) from the Settlement after receiving notice of the settlement.

1 1. WHEREAS, Representative Plaintiffs and Defendants entered into a Settlement
2 Agreement, dated September 10, 2015.

3 2. WHEREAS, on _____, 2015, the Court entered an Order of Preliminary
4 Approval (“Preliminary Approval Order”) that, among other things:

- 5 a. preliminarily approved the settlement terms set forth in the Settlement Agreement as
6 fair, reasonable, and adequate, and the product of investigation, litigation, and arm’s-
7 length negotiation (subject to final consideration at the Final Approval Hearing);
- 8 b. appointed Kurtzman Carson Consultants (“KCC”), the Settlement Administrator
9 selected and agreed to by the Settling Parties, as the Settlement Administrator;
- 10 c. approved the claims, opt-out, and objection procedures provided for by the Settlement
11 Agreement;
- 12 d. ordered that the Notice of Settlement (attached to the Preliminary Approval Order) be
13 implemented by KCC, and sent out to the Settlement Class Members² within twenty
14 (20) days of entry of the Preliminary Approval Order;
- 15 e. directed Co-Lead Class Counsel, within ten (10) days of entry of the Order Granting
16 Preliminary Approval, to furnish the Settlement Administrator with a list containing the
17 names, last known addresses, and telephone numbers of all Settlement Class Members,
18 pursuant to a HIPAA Business Associate Agreement between Co-Lead Class Counsel
19 and the Settlement Administrator to maintain confidentiality; and
- 20 f. ordered a Final Approval Hearing before this Court on _____, 2015 at
21 _____, in Department CX104 of the Superior Court of California, County of
22 Orange, Civil Complex Center.

23 3. WHEREAS, the Notice of Settlement ordered by the Court in its Preliminary Approval
24 Order has been provided to the Settlement Class, as attested to in the declaration of
25 _____, filed with the Court on _____, 2015.

26 _____
27 ² “Settlement Class [Member],” as defined in § IV ¶ 1.6 of the Settlement Agreement, means “any individual who (1) falls
28 within definition of the Class or Class Member (as defined in the Court’s December 5, 2014 Order Granting Plaintiffs’
Motion for Class Certification), and (2) who did not previously timely and validly exclude himself or herself from the
certified Class.”

1 4. WHEREAS, Co-Lead Class Counsel has provided the Court with declarations, and oral
2 and written evidence explaining to the Court the nature and magnitude of the claims in question, the
3 defenses to those claims, the nature of the investigation that had been conducted to determine the
4 number of class members, the specific information obtained through ample discovery and independent
5 research by Co-Lead Class Counsel that may affect the Plaintiff's claims, the factors that were
6 considered in discounting the potential recovery for purposes of settlement, and the basis for
7 concluding that the consideration being paid for the release of those claims represents a reasonable
8 compromise.

9 5. WHEREAS, on _____, 2015, a hearing was held on whether the settlement terms
10 set forth in the Settlement Agreement were fair, reasonable, adequate, in the best interests of the
11 Settlement Class, such hearing date being a due and appropriate number of days after such notice to the
12 Settlement Class and the requisite number of days after such governmental notice.

13 6. WHEREAS, the Court has given considerable weight to the competency and integrity of
14 counsel and the involvement of a neutral mediator in assuring the Court that the settlement represents
15 an arm's length transaction entered without self-dealing or other potential misconduct.

16 7. WHEREAS, the Court has an understanding of the amount that is in controversy and the
17 realistic range of outcomes of the litigation, and is independently satisfied that the consideration being
18 received for the release of the Class Members' claims is reasonable in light of the strengths and
19 weaknesses of the claims and the risks of the particular litigation, and that the settlement was not
20 collusive.

21 NOW THEREFORE, having reviewed and considered the submissions presented with respect
22 to the terms set forth in the Settlement Agreement and the record in these proceedings, having heard
23 and considered the evidence presented by the parties and the arguments of counsel, having determined
24 that the terms set forth in the Settlement Agreement are fair, reasonable, adequate, and in the best
25 interests of the Settlement Class, and GOOD CAUSE APPEARING THERFORE, IT IS HEREBY
26 ORDERED AND ADJUDGED as follows:

27 1. The Court hereby incorporates by reference all definitions set forth in the Settlement
28 Agreement, as if those terms were defined herein, except where otherwise defined.

1 2. This Court has jurisdiction over the subject matter of the Action and over all Parties to
2 the Action, including all members of the Settlement Class.

3 3. The form, content, and method of dissemination of the Notice of Settlement given to the
4 Settlement Class were adequate and reasonable, and constituted the best notice practicable under the
5 circumstances. The notice, as given, provided valid, due, and sufficient notice of the proposed
6 settlement, the terms and conditions set forth in the Settlement Agreement, and these proceedings to all
7 Persons entitled to such notice, and said notice fully satisfied the requirements of California Rules of
8 Court, Rule 3.766(e) and (f), and due process.

9 4. Pursuant to this Court’s Preliminary Approval Order, for the purposes of settling the
10 Released Claims against Defendants in accordance with the Settlement Agreement, the following
11 Persons are “Participating Settlement Class Members” for purposes of the Order:

12 *All Persons who (1) fall within the definition of the Class pursuant to this*
13 *Court’s December 5, 2014 Order Granting Plaintiffs’ Motion for Class*
14 *Certification, who (2) did not timely and validly exclude himself or herself*
15 *from either (a) the Class prior to this Court’s Order Granting Preliminary*
 Approval of the settlement, or (b) from the settlement after receiving
 notice of this settlement.

16 5. Excluded from the Participating Settlement Class Members are those Persons identified
17 in Exhibit 1, attached hereto, who submitted timely and valid requests for exclusion from the settlement
18 (“Settlement Opt-Outs”). Settlement Opt-Outs shall neither share in the distribution of the Settlement
19 Fund nor receive any benefits of the terms of the Settlement Agreement, and shall not be bound by this
20 Judgment Order.

21 6. The Representative Plaintiffs and Co-Lead Class Counsel fairly and adequately
22 represented the interests of all Class Members in connection with settlement terms set forth in the
23 Settlement Agreement.

24 7. Having considered all objections to the terms set forth in the Settlement Agreement, and
25 having found them to either to be mooted or not supported by credible evidence, the Settlement
26 Agreement is in all respects, fair, adequate, reasonable, proper, and in the best interests of the
27 Settlement Class, and is hereby approved.

1 8. Upon entry of this Order, compensation to the Participating Settlement Class Members
2 shall be effected pursuant to the terms of the Settlement Agreement.

3 9. The Court approves the proposed cy pres recipient, the Public Law Center in Orange
4 County, California (601 Civic Center Drive West, Santa Ana, CA 92701-4002), with the directive that
5 the funds allocated to the cy pres recipient in the Settlement Agreement be used for the provision of
6 services to victims of identity theft and fraud-related crimes.

7 10. Representative Plaintiffs, Defendants, and the Participating Settlement Class Members
8 shall consummate the settlement according to the terms of the Settlement Agreement. The Settlement
9 Agreement, including each and every term and provision thereof, shall be deemed incorporated herein
10 as if explicitly set forth in this Order and shall have the full force and effect of an order of this Court,
11 except as may be otherwise explicitly stated by this Order.

12 11. As soon as is practicable, the Representative Plaintiffs are hereby ordered to dismiss
13 their cases with prejudice. Class Counsel has already agreed, in joining the underlying Settlement
14 Agreement, to dismiss Plaintiffs' cases with prejudice upon entry of this Judgment.

15 12. Each Released Claim of each Participating Settlement Class Member is hereby
16 extinguished as against the Released Persons. Representative Plaintiffs and each Participating
17 Settlement Class Member shall be deemed conclusively to have compromised, settled, discharged, and
18 released the Released Claims against Defendants upon the terms and conditions provided in the
19 Settlement Agreement. Participating Settlement Class Members are deemed to have released and
20 forever discharged Defendants from any and all of Plaintiffs' Released Claims, except for enforcement
21 of the Settlement Agreement. The Released Claims include any and all Claims (including, without
22 limitation, any causes of action under the Confidentiality of Medical Information Act, California Civil
23 Code § 56, *et seq.*; the California Unfair Competition Law, California Civil Code § 17200, *et seq.*; and
24 negligence) for damages, costs, losses of services, expenses and compensation of any nature
25 whatsoever, whether based on tort, contract or other theory of recovery which Participating Settlement
26 Class Members and Class Representatives (along with all of their current and former spouses, heirs,
27 guardians, executors, administrators, representatives, agents, attorneys, partners, successors,
28

1 predecessors-in-interest, and assigns) now have or which may have or which may hereafter accrue or
2 otherwise be acquired on account of, or which in any way relate to, grow out of, or are or could have
3 been the subject of the Litigation, the litigation-related investigations conducted by Named Plaintiffs
4 and Defendants and their agents and counsel, or any other allegations, facts, or circumstances described
5 in the Litigation.

6 13. Defendants are deemed to have fully, finally, and forever released, relinquished, and
7 discharged the Representative Plaintiffs, the Participating Settlement Class Members, Co-Lead Class
8 Counsel, and all other Plaintiffs' Counsel who have consented to and joined in the settlement, from all
9 claims based upon or arising out of the institution, prosecution, assertion, settlement or resolution of the
10 Litigation or the Released Claims, except as set forth in the Settlement Agreement.

11 14. Having reviewed and considered all petitions and arguments raised by counsel for
12 Representative Plaintiffs' incentive awards separate and apart from the other terms of the Settlement
13 Agreement, and in recognition of the Representative Plaintiffs' efforts on behalf of the Settlement
14 Class, the Court hereby approves Representative Plaintiffs' unopposed request for the payment of
15 incentive awards to Class Representatives in the total of \$50,000, in addition to any recovery that
16 Plaintiffs may receive under the settlement, distributed as follows:

- 17 a. \$15,000 to Plaintiff Danna Graewingholt;
- 18 b. \$8,750 to Plaintiff Jeannie Hambric;
- 19 c. \$8,750 to Plaintiff Linda Kerkow;
- 20 d. \$8,750 to Plaintiff Desiree Ortiz; and
- 21 e. \$8,750 to Plaintiff Deanna DeBaeke.

22 15. Having considered all petitions and arguments submitted and raised by Co-Lead Class
23 Counsel for attorneys' fees, costs, and expenses separate and apart from other terms of the Settlement
24 Agreement, and having considered all objections thereto, the Court approves Representative Plaintiffs'
25 unopposed request for the payment of attorneys' fees and costs to Co-Lead Class Counsel in the sum of
26 \$7,450,000.

1 16. This “Judgment” is intended to be a final disposition of the above captioned action in its
2 entirety and is intended to be immediately appealable.

3 17. Notwithstanding ¶ 16, this Court shall retain jurisdiction with respect to all matters
4 related to the administration and consummation of the settlement, and any and all claims, asserted in,
5 arising out of, or related to the subject matter of the lawsuit, including but not limited to all matters
6 related to the settlement and the determination of all controversies relating thereto.

7 18. In the event the Effective Date does not occur, this Judgment Order shall be rendered
8 null and void and shall be vacated and, in such event, as provided in the Settlement Agreement, this
9 Judgment and all orders entered in connection herewith shall be vacated and null and void.

10 19. The Court directs the Clerk to enter Judgment.

11 IT IS SO ORDERED.

12
13 Dated: _____, 2015

Honorable Kim G. Dunning
Superior Court Judge

Exhibit D

1 GIBSON, DUNN & CRUTCHER LLP
JEFFREY H. REEVES, SBN 156648
2 jreeves@gibsondunn.com
JOSHUA A. JESSEN, SBN 222831
3 jjessen@gibsondunn.com
HEATHER L. RICHARDSON, SBN 246517
4 hrichardson@gibsondunn.com
3161 Michelson Drive
5 Irvine, CA 92612-4412
Telephone: 949.451.3800
6 Facsimile: 949.451.4220

7 Attorneys for ST. JOSEPH HEALTH SYSTEM,
MISSION HOSPITAL REGIONAL MEDICAL
8 CENTER, ST. JUDE HOSPITAL, QUEEN OF THE
VALLEY MEDICAL CENTER, SANTA ROSA
9 MEMORIAL HOSPITAL, PETALUMA VALLEY
HOSPITAL AUXILIARY, THE AUXILIARY OF
10 MISSION HOSPITAL LAGUNA BEACH, THE
AUXILIARY OF MISSION HOSPITAL MISSION
11 VIEJO, SAINT JOSEPH HOSPITAL OF ORANGE,
SAINT JOSEPH HOSPITAL OF EUREKA, and
12 REDWOOD MEMORIAL HOSPITAL OF FORTUNA

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 FOR THE COUNTY OF ORANGE
CIVIL COMPLEX CENTER

15 COORDINATION PROCEEDING SPECIAL
16 TITLE (RULE 3.550)

JUDICIAL COUNCIL COORDINATION
PROCEEDING NO. 4716

17 **ST. JOSEPH HEALTH SYSTEM MEDICAL
18 INFORMATION CASES**

ASSIGNED FOR ALL PURPOSES TO:
JUDICIAL OFFICER KIM G. DUNNING
DEPARTMENT CX 104

19 THIS DOCUMENT RELATES TO:

DECLARATION OF KAREN MIHELIC

20 ALL CASES
21
22
23
24
25
26
27
28

Action Filed: February 17, 2012
Trial Date: None

1 I, Karen Mihelic, declare:

2 1. I am over the age of 18 and am the Executive Director, RSO Ministry Security at St.
3 Joseph Health System ("SJHS"). In my role, I oversaw many of the remediation efforts undertaken
4 following SJHS's discovery that certain patient information was publicly accessible via the Internet.
5 The facts stated in this declaration are based on my personal knowledge, and if called upon as a
6 witness I would and could testify competently to them.

7 2. Following receipt of a letter from Class Representative Danna Graewingholt's counsel
8 notifying SJHS that certain personal health information of the SJHS's patients was publicly
9 accessible via the Internet, SJHS (i) notified potentially affected patients, (ii) provided protection to
10 its potentially affected patients, (iii) ensured its policies and procedures complied with state and
11 federal law, and (iv) implemented numerous security remedial measures.

12 3. Notification: In or around February 13, 2012, SJHS sent letters to approximately
13 31,802 of its patients, notifying them that their personal health information was inadvertently publicly
14 accessible on the Internet such that outside search engines had access to the information. The letter
15 stated that the type of information accessible included the following: diagnoses lists, active
16 medication lists, lab results, medication allergies, body mass index (BMI), blood pressure, smoking
17 status, advance directive status, and demographic information, including spoken language, ethnicity,
18 race, gender, and birth date. SJHS also notified the appropriate state and federal regulatory
19 authorities, including the Department of Health and Human Services. SJHS also created and
20 publicized a hotline for patients to call with questions or concerns.

21 4. Protection: As a precautionary measure, SJHS offered one year of identify-theft and
22 credit monitoring to all potentially affected patients. The cost of this service from Kroll, Inc. is
23 valued at over \$4,500,000, an estimate generated by multiplying the value of one year of identity
24 theft and credit monitoring using the plan SJHS offered per person (\$12 per month) times the number
25 of individuals to whom the offer was sent (approximately 31,802).

26 5. Policies and Procedures: Following notification, SJHS instituted a review of its
27 policies and procedures. To assist in that endeavor, SJHS hired multiple outside consultants to
28 review and audit its policies and procedures and provide recommendations on additions and changes.

1 For example, SJHS retained Deloitte at a cost of more than \$2 million to develop an integrated
2 controls framework, and assist in the implementation of a Governance, Risk, and Compliance tool to
3 assess application and related systems security, and assign remediation requirements for mitigating
4 controls to be implemented. SJHS also revamped its security training programs and hired a
5 permanent Chief Security Officer.

6 6. Security Remedial Measures: SJHS also implemented numerous security remedial
7 measures following identification of the security gap by Class Counsel and during the pendency of
8 the litigation pursued by Class Counsel. SJHS acknowledges and stipulates that Class Counsel was
9 the catalyst and predominant cause of the following remediation efforts:

10 (a) SJHS's personnel shut down the SharePoint site that was inadvertently made
11 accessible via the Internet. This made the SharePoint site, and the data housed on it, inaccessible via
12 the Internet.

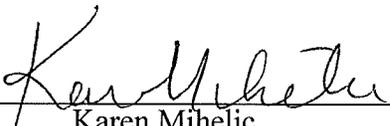
13 (b) SJHS engaged consultants from Blue Mountain Labs and assigned its own security
14 and information technology personnel to search for and attempt to remove all of the search engine
15 links to the data on the SharePoint site and stored copies (known as cached) of the data. To that end,
16 personnel collected and submitted to Google hundreds of unique URL web addresses associated with
17 the data stored on the SharePoint site. Google then deleted both the search engine links and any
18 cached copies of the data.

19 (c) To ensure that these measures were successful, SJHS hired another outside consultant,
20 Wired Security, to confirm that the search engine links to the origin of the data were identified and
21 removed. The cost of this work was approximately \$4,000. Further, SJHS engaged a different third
22 party, Cynergistek, to conduct vulnerability scanning at a cost of approximately \$167,000.

23 (d) Most critically, SJHS built a stronger and more robust information technology security
24 infrastructure. As a result of the data security incident, SJHS hired a leading security software
25 company to install and support a suite of security controls, the cost of which was nearly \$8 million.
26 SJHS also retained a different leading security software company to install and support a data loss
27 prevention program that scans and searches outgoing data attempting to find and quarantine private
28 health information. This is a highly complex program, as it requires the algorithms to be able to

1 accurately tell the difference between, for example, a signature block that mentions the sender is an
2 anesthesiologist and data that is personal health information. This data loss prevention program is
3 still being developed and implemented, but it has already cost more than \$2.5 million to install and
4 support. On top of the adoption of these two large security programs, SJHS has also spent
5 approximately \$7 million upgrading its hardware, including the SharePoint site itself, and ensuring
6 that its systems and software remain current in this fast developing field. Finally, because of the
7 complexity and size of many of these hardware and software upgrades, SJHS has hired twenty
8 additional full-time data security employees since 2012 to help maintain and continue to build out the
9 programs. In sum, SJHS has spent well over \$17 million in remediation efforts—notification,
10 protection, policies and procedures, and security efforts—to the benefit of its patients, including the
11 class members. SJHS acknowledges and stipulates that Class Counsel was the catalyst and
12 predominant cause of these remediation efforts.

13
14 I declare under penalty of perjury under the laws of the State of California that the foregoing
15 is true and correct and that this declaration was executed at Anaheim, California on this 11th
16 day of September, 2015.

17
18 
19 _____
Karen Mihelic

20 101981770.7

Exhibit E

1 Daniel S. Robinson, SBN 244245
2 Wesley K. Polischuk, SBN 254121
3 **ROBINSON CALCAGNIE ROBINSON**
4 **SHAPIRO DAVIS, INC.**
5 19 Corporate Plaza Drive
6 Newport Beach, California 92660
7 Telephone: (949) 720-1288
8 Facsimile: (949) 720-1292
9 drobinson@rcrsd.com
10 wpolischuk@rcrsd.com

11 *Co-Lead Counsel for the Class*

12 Jeffrey H. Reeves, SBN 156648
13 **GIBSON, DUNN & CRUTCHER LLP**
14 3161 Michelson Drive
15 Irvine, CA 92612-4412
16 Telephone: (949) 451-3800
17 Facsimile: (949) 451-4220
18 jreeves@gibsondunn.com

19 *Defendants' Lead and Liaison Counsel*

20 SUPERIOR COURT OF THE STATE OF CALIFORNIA

21 COUNTY OF ORANGE – CIVIL COMPLEX

22 Coordination Proceeding
23 Special Title (Rule 3.550)

Judicial Council Coordinated
Proceeding No. 4716

24 **ST. JOSEPH HEALTH SYSTEM MEDICAL**
25 **INFORMATION CASES**

Coordination Trial Judge:
Honorable Kim G. Dunning
Department CX 104

26 DEANNA DEBAEKE, DANNA
27 GRAEWINGHOLT, JEANNIE HAMBRIC,
28 LINDA KERKOW, and DESIREE ORTIZ,
individually and on behalf of all others similarly
situated,

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT AND NOTICE OF
SETTLEMENT**

Plaintiffs,

vs.

ST. JOSEPH HEALTH SYSTEM, et al.,

Defendants.

Before the Court is the Joint Motion for Preliminary Approval of Class Action Settlement.
Plaintiffs Deanna Debaeke, Danna Graewingholt, Jeannie Hambric, Linda Kerkow, and Desiree Ortiz

1 (“Representative Plaintiffs”), individually and on behalf of the Settlement Class Members,¹ by and
2 through Daniel S. Robinson, Robinson Calcagnie Robinson Shapiro Davis, Inc., and Jeremiah Frei-
3 Pearson, Finkelstein, Blankinship, Frei-Pearson & Garber, LLP (“Co-Lead Class Counsel”); and
4 Defendants St. Joseph Health System, Mission Hospital Regional Medical Center, St. Jude Hospital,
5 Queen of the Valley Medical Center, Santa Rosa Memorial Hospital, Petaluma Valley Hospital
6 Auxiliary, The Auxiliary of Mission Hospital Laguna Beach, The Auxiliary of Mission Hospital
7 Mission Viejo, Saint Joseph Hospital of Orange, Saint Joseph Hospital of Eureka and Redwood
8 Memorial Hospital of Fortuna (collectively, “Defendants”), by and through Jeffrey H. Reeves, Gibson
9 Dunn, LLP, Defendants’ Lead and Liaison Counsel, request that the Court enter an order:

10 (1) preliminarily approving the Settlement Agreement, and finding that it is fair, reasonable,
11 adequate, and the product of investigation, litigation and arm’s-length negotiation;

12 (2) appointing Kurtzman Carson Consultants as the Settlement Administrator selected and
13 agreed to by the Settling Parties;

14 (3) approving the claims, opt-out procedures, and objection procedures provided for in the
15 Settlement Agreement;

16 (4) directing Co-Lead Class Counsel, within ten (10) days of entry of the Order Granting
17 Preliminary Approval, to furnish the Settlement Administrator with a list containing the names, last
18 known addresses, and telephone numbers of all Settlement Class Members, pursuant to a HIPAA
19 Business Associate Agreement between Co-Lead Class Counsel and the Settlement Administrator to
20 maintain confidentiality; and

21 (5) setting a Final Approval Hearing on or about _____, 2015, at _____
22 in Department CX104 of the Superior Court of the State of California, County of Orange, Civil
23 Complex Division.

24 Having reviewed and considered the Settlement Agreement and the Joint Motion for
25 Preliminary Approval of the Class Action Settlement (including the supporting Memorandum of Points

26 _____
27 ¹ “Settlement Class [Member],” as defined in § IV ¶ 1.6 of the Settlement Agreement, means any individual who (1) falls
28 within definition of the Class or Class Member (as defined in the Court’s December 5, 2014 Order Granting Plaintiffs’
Motion for Class Certification), and (2) who did not previously timely and validly exclude himself or herself from the
certified Class.

1 and Authorities), and having heard and considered the oral arguments of counsel, the Court makes the
2 findings and grants the relief set forth below, preliminarily approving the settlement contained in the
3 Settlement Agreement upon the terms and conditions set forth in this Order. All terms and phrases in
4 this Order shall have the same meaning as they are defined in the Settlement Agreement.

5 NOW, THEREFORE, IT IS HEREBY ORDERED:

6 1. The Court preliminarily approves the settlement terms set forth in the Settlement
7 Agreement as fair, reasonable, and adequate, and the product of investigation, litigation, and arm's-
8 length negotiation, subject to final consideration at the Final Approval Hearing provided for below.

9 2. Kurtzman Carson Consultants ("KCC), the Settlement Administrator selected and
10 agreed to by the Settling Parties, is appointed as the Settlement Administrator.

11 3. The Notice of Settlement, attached hereto as Exhibit A, shall be implemented by KCC.
12 KCC shall send out the Notice of Settlement to the Settlement Class Members, in the manner and form
13 approved by this Court, within twenty (20) days of entry of the Order of Preliminary Approval.

14 4. Prior to the Final Approval Hearing (defined herein), Co-Lead Class Counsel and
15 Defendants shall cause to be filed with the Court an appropriate affidavit or declaration with respect to
16 complying with the Notice Plan that will be submitted to the Court.

17 5. A hearing (the "Final Approval Hearing") shall be held before this Court on
18 _____, 2015, at _____, in Department CX104 of the Superior Court of
19 California, County of Orange, to determine:

- 20 (i) whether the terms set forth in the Settlement Agreement are fair, reasonable,
21 adequate, and in the best interests of the Settlement Class;
- 22 (ii) whether a Judgment Order, as provided for in the Settlement Agreement, should
23 be entered granting final approval of the settlement; and
- 24 (iii) whether, and in what amount, attorneys' fees, costs and expenses, and
25 Representative Plaintiff incentive awards, should be paid to an account
26 established and/or directed by Co-Lead Class Counsel for distribution.
- 27
28

1 The Court may adjourn and/or continue the Final Approval Hearing without further notice to
2 Settlement Class Members.

3 6. Each Person desiring to exclude themselves from the settlement shall timely submit, via
4 U.S. Mail, written notice of such intent to the designated address. The written notice must clearly
5 manifest the intent to be excluded from the settlement, and must be signed by the Settlement Class
6 Member, or the Settlement Class Member's parent or guardian (if the Settlement Class Member is a
7 minor). Signature by an authorized representative of the Settlement Class Members is also acceptable
8 if proper and adequate documentation of the authorization accompanies the opt-out. To be effective,
9 written notice must be postmarked by the Settlement Opt-Out Period, which shall run from the time
10 notice of the settlement is first sent to Settlement Class Members, until and including sixty (60) days
11 thereafter.

12 7. All Settlement Class Members who do not request to be excluded from the settlement
13 (*i.e.* "Participating Settlement Class Members"²) shall be bound by the terms of the Settlement
14 Agreement, the Judgment Order entered thereon, and all Orders entered by the Court in connection with
15 the settlement terms set forth in the Settlement Agreement. All Persons who submit valid and timely
16 notices of their intent to be excluded from the settlement shall neither receive any benefits, nor be
17 bound by the terms of the Settlement Agreement.

18 8. Participating Settlement Class Members who wish to submit a claim for any benefit
19 under the Settlement Agreement, as to which a claim is required, shall do so in accordance with the
20 requirements and procedures set forth in the Settlement Agreement. All Participating Settlement Class
21 Members who qualify for any benefit under the Settlement Agreement as to which a claim is required,
22 but fail to submit a claim therefor in accordance with the requirements and procedures of the Settlement
23 Agreement, shall be forever barred from receiving any such benefit, but will in all other respects be
24 subject to and bound by the provisions of the Settlement Agreement, the releases contained therein, and
25 the Judgment Order.

26
27 ² "Participating Settlement Class Member," as defined in § IV ¶ 1.7 of the Settlement Agreement, means any Settlement
28 Class Member who does not timely and validly exclude himself or herself from the Settlement Class after receiving notice
of this Settlement.

1 9. Each Participating Settlement Class Member desiring to object to the settlement shall
2 submit a timely written notice of his or her objection. Such notice shall state:

- 3 (i) the objector's full name, address, telephone number, and e-mail address;
- 4 (ii) a written statement of all grounds for the objection, accompanied by any legal
5 support for the objection, and any evidence the Participating Settlement Class
6 Member wishes to introduce in support of the objection;
- 7 (iii) the identity of all counsel representing the objector, accompanied by any legal
8 support for the objection;
- 9 (iv) a statement confirming whether the objector intends to personally appear and/or
10 testify at the Final Approval Hearing; and
- 11 (v) the objector's signature, signed under oath and penalty of perjury or, if legally
12 incapacitated, the signature of their duly authorized representative (along with
13 documentation setting forth such legal incapacitation and representation).

14 To be timely, written notice of an objection in the correct format above must be mailed to the
15 Settlement Administrator twenty-one (21) days prior to the date set in the Notice for the Final Approval
16 Hearing, and also mailed to each of the following:

- 17 (i) Co-Lead Counsel, Daniel S. Robinson, Robinson Calcagnie Robinson Shapiro
18 Davis, Inc., 19 Corporate Plaza, Newport Beach, CA 92660;
- 19 (ii) Co-Lead Counsel, Jeremiah Frei-Pearson, Finkelstein, Blankinship, Frei-Pearson
20 & Garber, 1311 Mamaroneck Avenue, Suite 220, White Plains, New York,
21 10605; and
- 22 (iii) Defendants' Lead and Liaison Counsel, Jeffrey Reeves, Gibson Dunn &
23 Crutcher, LLP, 3161 Michelson Drive, Irvine, CA 92612.

24 10. All discovery and pretrial proceedings in this Litigation are stayed and suspended until
25 further order of this Court.

26 11. Pending the final determination of the fairness, reasonableness, and adequacy of the
27 terms set forth in the Settlement Agreement, no Participating Settlement Class Member, either directly,
28

1 representatively, or in any other capacity, shall institute, commence, or prosecute any of the Released
2 Claims in any action or proceeding in any court or tribunal.

3 12. Neither the Settlement Agreement, nor the terms contained therein, nor any act
4 performed or document executed pursuant to or in furtherance of the Settlement Agreement or the
5 settlement: (a) is or may be deemed to be, or may be used as an admission of, or evidence of, the
6 validity or lack thereof of any Released Claim, or of any wrongdoing or liability of Defendants; or (b)
7 is or may be deemed to be, or may be used as an admission of, or evidence of, any fault or omission of
8 Defendants, in any civil, criminal, or administrative proceeding in any court, administrative agency, or
9 other tribunal.

10 13. In the event the Court does not grant final approval of the Settlement Agreement, or the
11 Settlement Agreement is terminated in accordance with its terms, the Settling Parties shall be restored
12 to their respective positions in the Litigation, except that all scheduled litigation deadlines shall be
13 reasonably extended so as to avoid prejudice to any Settling Party or litigant. In such event, the terms
14 and provisions of the Settlement Agreement shall have no further force and effect with respect to the
15 Settling Parties, and shall not be used in the Litigation or in any other proceeding for any purpose, and
16 any judgment or order entered by the Court in accordance with the terms of the Settlement Agreement
17 shall be treated as vacated, nunc pro tunc.

18 IT IS SO ORDERED.

19
20 Dated: _____, 2015

21 Honorable Kim G. Dunning
22 Superior Court Judge
23
24
25
26
27
28

Exhibit F

This notice may affect your rights – please read it carefully.

You may be entitled to receive compensation under this class action settlement.

*A California Superior Court authorized this notice. This is **not** a solicitation from a lawyer.*

- A Settlement has been reached with Defendants St. Joseph Health System, Mission Hospital Regional Medical Center, St. Jude Hospital, Queen of the Valley Medical Center, Santa Rosa Memorial Hospital, Petaluma Valley Hospital Auxiliary, The Auxiliary of Mission Hospital Laguna Beach, The Auxiliary of Mission Hospital Mission Viejo, Saint Joseph Hospital of Orange, Saint Joseph Hospital of Eureka, and Redwood Memorial Hospital of Fortuna (collectively, “SJHS” or “Defendants”) regarding the accessibility of confidential medical information on the Internet. The underlying lawsuit, *St. Joseph Health System Medical Information Cases*, JCCP 4716, is presently pending in the Superior Court of the State of California, County of Orange.
- Prior to reaching the Settlement, the Plaintiffs and SJHS engaged in extensive discovery, including depositions of over twenty (20) witnesses and experts, written interrogatories and requests for production of documents. Plaintiffs and SJHS have reviewed tens of thousands of documents and have diligently litigated the facts of this case for over three (3) years. Prior to reaching the Settlement, Plaintiffs and SJHS engaged in multiple mediation sessions with the Hon. Edward A. Infante (Ret.).
- In this action, Plaintiffs allege that SJHS violated certain laws relating to the confidentiality of medical information when certain information of almost 32,000 patients of SJHS hospitals was publicly accessible on the Internet between approximately February 2011 and February 2012. The information included diagnoses lists, active medication lists, lab results, medication allergies, body mass index (BMI), blood pressure, smoking status, advance directive status, and demographic information, including spoken language, ethnicity, race, gender and birth date, although the same type of information was not necessarily accessible for each patient. You previously received notice regarding the Court’s certification of a Class of individuals because information related to you or your minor child may have been released on the Internet. You are being provided with this notice because you are a Settlement Class Member, which is defined as a Class Member who did not opt out of the Class following the previous notification.
- SJHS denies that their actions violated the law and deny any liability. The Court has not decided whether SJHS did anything wrong.
- The Court has preliminarily approved the Settlement which affects your legal rights and you have a choice to make now.
- The Settlement provides (1) a total cash payment of \$7,500,000 to cover payments to Participating Settlement Class Members (which means the settlement payment to you, if you decide not to opt out, would be at least \$241.35), (2) potential reimbursement of certain identity theft losses and out-of-pocket expenses if it can be shown they are more likely than not the result of the alleged disclosure, (3) enhanced security measures at SJHS with an estimated value of at least \$13,000,000,

(4) protection of Participating Settlement Class Members who are minors, and (5) attorneys' fees, costs and incentive awards to the class representatives, to be paid separately by SJHS.

- Your legal rights are affected whether you act, or do not act. Read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
DO NOTHING AND RECEIVE A SETTLEMENT PAYMENT	If you do nothing, you will receive your eligible share of the \$7,500,000 cash payment to Participating Settlement Class Members (which will be at least \$241.35), who are defined as Settlement Class Members who do not timely and validly exclude themselves from the Settlement Class after receiving notice of this Settlement, but you will be giving up any rights you may have to separately sue SJHS for legal claims released by this Settlement. By doing nothing and receiving a settlement payment, you are still eligible to submit a claim for certain identity theft losses and out-of-pocket expenses if it can be shown they are more likely than not the result of the alleged breach, which is discussed in more detail below.
EXCLUDE YOURSELF	You will not receive a settlement payment or any other benefits. This is the only option that allows you to file a lawsuit against SJHS over the claims resolved by this Settlement.
OBJECT	Write to the Court about why you do not like the Settlement.
GO TO A HEARING	Ask to speak in Court about the fairness of the Settlement.

- These rights and options – **and the deadlines to exercise them** – are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. Settlement Class Members who do not opt out (“Participating Settlement Class Members”) will receive a check for their share of the settlement payment only if the Court approves the Settlement and after the time for appeals has ended and any appeals are resolved.

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BASIC INFORMATION

1. Why is this Notice being provided?

You are receiving this Notice because a settlement has been reached regarding a lawsuit entitled *St. Joseph Health System Medical Information Cases*, JCCP No. 4716, presently pending in the Superior Court of the State of California, County of Orange. The lawsuit concerns allegations that SJHS violated certain laws relating to the confidentiality of medical information when certain information—some of which constituted medical information—of almost 32,000 patients from SJHS hospitals was publicly accessible on the Internet between approximately February 2011 and February 2012.

On December 5, 2014, the Court granted Plaintiffs' Motion for Class Certification and defined the Class as follows:

All SJHS patients whose confidential medical information was made publicly accessible on the Internet by Defendants at any point from February 1, 2011 through February 28, 2012.

A notice was sent to you in April or May 2015 regarding the Court's ruling. Since you did not opt out of the Class at that time, the Court authorized this Notice be sent to you because you have a right to know about a proposed Settlement of this class action lawsuit and about all of your rights and options before the Court decides whether to give "final approval" to the Settlement. This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who may be eligible for those benefits, and how to get them.

2. What is this lawsuit about?

The lawsuit concerns allegations leveled by Plaintiffs that SJHS violated certain laws relating to the confidentiality of medical information when certain information—some of which constituted medical information—of almost 32,000 patients from SJHS hospitals was accessible on the Internet between approximately February 2011 and February 2012.

SJHS denies all allegations of wrongdoing and of liability. There has been no finding of any violation or wrongdoing by SJHS by any court.

3. What information was made publicly accessible?

The information that was potentially accessible included some combination of name, date of birth, age, height, weight, blood pressure, language, ethnicity, race, sex, list of diagnoses, list of active medications, list of allergies, lab results, hospital admission dates, hospital unit numbers, hospital account numbers, patients' advanced directive status, patients' smoking status, dates or order numbers of Computerized Physician Order Entry ("CPOE") reports, status of patients' discharge instructions, and/or status of patients' requests for electronic copies of records. The information potentially accessible did not include financial information, such as social security numbers or other financial data.

4. Why is this a class action?

In a class action, one or more people called “Representative Plaintiffs” sue on behalf of people who have similar claims. All of these people are a “Class” or “Class Members.” One court resolves the issues for all Class Members, except for those who timely exclude themselves from the Class.

5. Why is there a Settlement?

The Court did not decide in favor of Plaintiffs or the Defendants. Instead, both sides agreed to settle this case to avoid the cost and risk of trial and appellate proceedings. The Settlement does not mean that any law was broken or that SJHS did anything wrong. SJHS denies all legal claims in this case. The Representative Plaintiffs and their lawyers think the Settlement terms are the best reasonably attainable for all Settlement Class Members.

WHO IS IN THE SETTLEMENT

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

If you have received this Notice, you or your minor child are a Settlement Class Member, which means you (1) fall within the Class definition approved by the Court (“*All SJHS patients whose confidential medical information was made publicly accessible on the Internet by Defendants at any point from February 1, 2011 through February 28, 2012.*”) and (2) you did not opt out previously timely and validly opt out of the Class after receiving notice of the Class certification.

7. How do I know if my confidential medical information was made publicly accessible?

All known Class Members whose confidential medical information may have been publicly accessible were previously mailed a notice regarding the Court’s order certifying a Class in this case. Prior to that, SJHS sent letters to Class Members in February 2012 notifying them that their medical information may have been publicly accessible.

8. If my confidential medical information was accessible, does that mean my identity was stolen?

No. Even if your confidential information was publicly accessible, it does not mean your identity was stolen. However, you may wish to remain vigilant reviewing account statements and obtaining free credit reports. If you notice any unauthorized activity, promptly contact the relevant financial institution. You can receive a free credit report at www.annualcreditreport.com or by calling 1-877-322-8228.

9. Are there exceptions to being included in the Settlement?

Yes. Those Persons who timely and validly opted out from the Class following the April/May 2015 mailing of the “Notice of Pendency of Class Action” or who timely and validly opt out from the Class as detailed below (*see Excluding Yourself from the Settlement below*) are not included in the Settlement. Additionally, if the Court does not approve the settlement, the settlement will be voided.

10. What if I am not sure whether I am included in the Settlement?

If you are not sure whether you are in the Settlement Class, or have any other questions about the settlement, call the toll-free number, 1-877-219-9782. You also may write with questions to: St. Joseph Health System Data Breach Settlement Administrator (Kurtzman Carson Consultants, LLC), P.O. Box 43356, Providence, RI 02940-3356.

THE SETTLEMENT BENEFITS – WHAT YOU GET IF YOU QUALIFY

11. What does the Settlement provide?

The Settlement offers a variety of benefits to Participating Settlement Class Members: (1) All Class Members who did not timely and validly opt out from the Class following the April/May 2015 mailing of the “Notice of Pendency of Class Action” or who did not timely and validly opt out from the Class as detailed below are eligible to receive a cash payment from the \$7,500,000 fund SJHS has agreed to pay to the Class (which will be at least \$241.35 per Participating Settlement Class Member); (2) potential reimbursement of certain identity theft losses (up to \$25,000 per Participating Settlement Class Member and with an extended time period of filing such claims until December 31, 2019) and out-of-pocket expenses reasonably incurred by Participating Settlement Class Members that resulted more likely than not from the Alleged Breach (with combined claims not exceeding \$3,000,000), (3) remedial measures instituted at SJHS with an estimated value of at least \$13,000,000, (4) protection of Participating Settlement Class Members who are minors, and (5) attorneys’ fees, costs and incentive awards to the class representatives, to be paid separately by SJHS. The amount of \$241.35 in (1) above was calculated by dividing \$7,500,000 by 31,704 (the number of Settlement Class Members as of the date the Settlement Agreement was signed rounded down to the nearest cent). Complete details on all of the settlement benefits are available in the Settlement Agreement, which is available at www.SJHSdatabreachclassaction.com.

12. Tell me more about reimbursement for identity theft and out-of-pocket expenses.

Identity theft reimbursement is a benefit that is available to all Participating Settlement Class Members. It covers any actual, documented and unreimbursed identity theft losses occurring between February 1, 2011 and January 1, 2017, which a Participating Settlement Class Member can show was more likely than not caused by the Alleged Breach. Under this benefit, SJHS will make payments of up to \$25,000 to each qualifying Participating Settlement Class Member. For potential identity theft losses discovered before the Court’s Final Approval of the settlement, the deadline to submit a claim is ninety (90) days after the Court grants Final Approval. For example, if the Court grants Final Approval at the [REDACTED], 2015 Final Fairness Hearing, the deadline to submit a claim for identity theft losses discovered prior to [REDACTED], 2015, will be [REDACTED], 2016.

For identity theft losses that are discovered after the Court’s Final Approval of the settlement, the deadline to submit a claim will be ninety (90) days following January 1, 2017, or April 1, 2017.

Participating Settlement Class Members can also get reimbursed for the following out-of-pocket expenses that a Participating Settlement Class Member can show were reasonably incurred more likely than not as the result of the Alleged Breach:

- Up to \$90 for paper check printing costs that were required to open a new or change an existing checking account;
- Up to \$200 (no more than \$20 a month), for the cost of any credit monitoring or identity theft insurance they paid for;

- Up to \$60 for the cost of telephone calls or the changing of a telephone number, postage relating to inquiries to bank accounts, financial accounts, mortgage accounts, and credit reports, lost time (\$10 per hour), and costs associated with freezing a credit report; and
- The cost of replacing a driver's license.

The deadline to submit claims for reimbursement for out-of-pocket expenses incurred is ninety (90) days after the Effective Date. Payments by SJHS for qualifying identity theft losses and out-of-pocket expenses will be paid on a first-come, first-serve basis, up to a total of \$3,000,000.

13. Tell me more about the additional security measures implemented by SJHS.

SJHS has acknowledged that as a result of the efforts of Plaintiffs and Class Counsel, SJHS provided one (1) year of identity theft protection to all Class Members in February 2012. The total value of this benefit is estimated to be over \$4,500,000.

SJHS has also acknowledged that Plaintiffs and Class Counsel were the catalyst and predominant cause of Defendant's discovery of the Alleged Breach, notice to the Class Members and state and federal regulatory authorities, and institution of health-care information and security-related remedial measures. The Declaration of Karen Mihelic, IT Security Director at SJHS, which is attached as Exhibit D to the Settlement Agreement, details the remedial measures and values those measures as being worth more than \$13,000,000.

HOW TO GET BENEFITS

14. How can I receive a payment from the Settlement?

You do not need to do anything to participate in the Settlement. If the Court grants final approval of the Settlement, you will receive a Settlement payment of at least \$241.35 automatically. If you want to claim identity theft losses or out-of-pocket expenses, you must fill out and return the claim form(s) attached to the Settlement Agreement.

Please contact the Settlement Administrator at 1-877-219-9782 toll free if this Notice was not mailed to your current address or if you move before the final approval hearing.

15. When and how will I get my payment?

Checks will be mailed to Participating Settlement Class Members and/or parents of Minor Participating Settlement Class Members after the Court grants final approval of the Settlement, and after the time for appeal has ended and any appeals have been resolved.

16. Who will represent my child's interests?

The Hon. Kim G. Dunning has appointed the Hon. Peter D. Lichtman (Ret.) as guardian *ad litem* for the interests of Minor Settlement Class Members pursuant to Code of Civil Procedure § 372. A minor is defined

as an individual who is under 18 years of age at the time the Court grants preliminary approval of the settlement.

The Court-appointed guardian *ad litem* shall be responsible for reviewing and analyzing the Settlement, and all pleadings submitted to the Court in connection with the Settlement, and opine whether the Settlement is fair, reasonable and in the best interest of the Minor Settlement Class Members. The Hon. Peter D. Lichtman (Ret.) is also available to assist the minor's parents or guardians regarding this settlement.

The parent or guardian of any Minor Settlement Class Member may exercise on behalf of the Minor all of the rights of any non-minor Settlement Class Member, including, the right to be excluded from the Settlement or to raise an objection.

17. How do I ask for identity theft and/or out-of-pocket expense reimbursements from SJHS?

To ask SJHS for reimbursement for demonstrated identity theft losses or out-of-pocket expenses, you must complete and submit the appropriate claim form(s) and provide required documentation. You can get claim forms at www.SJHSdatabreachclassaction.com or by calling 1-877-219-9782. For each claim form, please read the instructions carefully, fill out the claim form, attach the required documentation and mail it postmarked no later than the applicable deadline, to:

St. Joseph Health System Data Breach Settlement Administrator
P.O. Box 43356
Providence, RI 02940-3356

If you have questions about how to file a claim, call 1-877-219-9782 or go to www.SJHSdatabreachclassaction.com.

18. What if I disagree with the amount of my identity theft or out-of-pocket expenses reimbursements?

There is a process set out in the Settlement Agreement, under which you may seek to resolve any potential disagreement between you and SJHS over the amount of your reimbursements for identity theft or out-of-pocket expenses. Should a disagreement occur, you will receive a letter from the settlement administrator that explains the dispute resolution process. You may be asked to provide additional information to document your claim and you will be given a new deadline to re-file your claim. If the claim is not resolved in your favor, you will be responsible for paying the dispute resolution fee. If the claim is resolved in your favor, SJHS will be responsible for paying the dispute resolution fee. Paragraph 2.3(e) of the Settlement Agreement, available at www.SJHSdatabreachclassaction.com, provides more information about the dispute resolution process.

19. What am I giving up as part of the Settlement?

If the Settlement becomes final, Participating Settlement Class Members will be releasing the Defendants and all related people and entities from all of the claims described and identified in Section 10 of the Settlement Agreement. This means you will no longer be able to sue SJHS regarding any of the claims described in the Settlement Agreement. The Settlement Agreement is available at www.SJHSdatabreachclassaction.com or by calling 1-877-219-9782. The Settlement Agreement provides more detail regarding the release and describes the released claims with specific descriptions in necessary,

accurate legal terminology, so read it carefully. You can talk to the law firms representing the Settlement Class listed in Question 23 for free or you can, at your own expense, talk to your own lawyer if you have any questions about the released claims or what they mean.

EXCLUDING YOURSELF FROM THE SETTLEMENT

20. If I exclude myself, can I get anything from this Settlement?

No. If you exclude yourself, you may not apply for any benefits under the proposed Settlement and you cannot object to the proposed Settlement. However, if you ask to be excluded, you may sue, or be part of a different lawsuit against SJHS regarding the claims in this case in the future. You will not be bound by anything that happens in this lawsuit.

21. If I do not exclude myself, can I sue later?

No. Unless you exclude yourself, you give up the right to sue SJHS for all of the claims that this proposed Settlement resolves. You must exclude yourself from this Class to file your own lawsuit, continue with a lawsuit, or be part of any other lawsuit relating to the claims in this case.

22. How do I exclude myself from the settlement?

To exclude yourself from the proposed settlement, you must mail a letter or another written document clearly stating that you want to be excluded from the *St. Joseph Health System Medical Information Cases, JCCP 4716 Settlement*. Be sure to include your full name, address, signature, telephone number and date. You must mail your request for exclusion so that it is postmarked by **Month 00, 2015**, to:

St. Joseph Health System Data Breach Settlement Administrator
P.O. Box 43356
Providence, RI 02940-3356

You cannot ask to be excluded on the phone, by email, or on the website.

THE LAWYERS REPRESENTING YOU

23. Do I have a lawyer in the case?

If you want to be represented by your own lawyer in this case, you may hire one at your own expense. Otherwise, the law firms of Robinson Calcagnie Robinson Shapiro Davis, Inc. of Newport Beach, California, and Finkelstein, Blankinship, Frei-Pearson & Garber, LLP of White Plains, New York, have been designated as Lead Class Counsel to represent you and the other Class Members. Attorneys Eric A. Grover, Gregg A. Farley, Neil B. Fineman, and Robert Chaiken were also appointed, and represent you, as Class Counsel in the case. You will not be charged for these lawyers. All of their fees and costs will be paid by SJHS as part of the Settlement.

24. How will the lawyers be paid?

Class Representatives will ask the Court to approve the payment by SJHS of reasonable attorneys' fees and reasonable attorneys' costs and expenses to Plaintiffs' Counsel in an amount not to exceed \$7,450,000. Class Representatives will also ask the Court and Class Representative to approve incentive awards not to exceed \$50,000 to Class Representatives, collectively. The Court in its discretion may award less than these amounts. The payment of attorneys' fees, incentive awards, and reimbursement of costs awarded by the Court will be paid separately by SJHS and will not diminish the benefits provided by this Settlement to Participating Settlement Class Members.

OBJECTING TO THE SETTLEMENT

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

You can object to the settlement if you do not like some or all of it. You must give reasons why you think the Court should not approve the Settlement. To object, send a letter to the three addresses below, saying that you object to the proposed Settlement in *St. Joseph Health System Medical Information Cases*, JCCP 4716. Objections must include the following information in order to be considered by the Court:

- your full name, address, telephone number, and email address;
- a written statement of all grounds for the objection, accompanied by any legal support for the objection, and any evidence you wish to introduce in support of the objection;
- the name and address of any attorney representing you;
- a statement confirming whether you intend to personally appear and/or testify at the Final Fairness Hearing; and
- your signature signed under oath and penalty of perjury or, if legally incapacitated, the signature of your duly authorized representative (along with documentation setting forth such legal incapacitation and representation).

An objector's failure to include all of this information concerning themselves and their case may be grounds for the Court to disregard their objection.

Objections must be mailed to **each of the following** three recipients and must be postmarked no later than **Month 00, 2015**:

CO-LEAD CLASS COUNSEL	CO-LEAD CLASS COUNSEL	DEFENDANTS' COUNSEL
Jeremiah Frei-Pearson FINKELSTEIN, BLANKINSHIP, FREI- PEARSON & GARBER 1311 Mamaroneck Avenue, Suite 220, White Plains, New York, 10605	Daniel S. Robinson ROBINSON CALCAGNIE ROBINSON SHAPIRO DAVIS, INC. 19 Corporate Plaza Drive Newport Beach, CA 92660	St. Joseph Health System Data Breach Settlement Administration GIBSON, DUNN & CRUTCHER, LLP 3161 Michelson Drive, Suite 1200 Irvine, CA 92612

26. What is the difference between objecting and asking to be excluded?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class. If you exclude yourself, you cannot object to the Settlement and you will not be eligible to apply for any benefits under the Settlement because the case no longer affects you.

THE COURT'S FAIRNESS HEARING

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

The Court will hold a Fairness Hearing at 9:00 a.m., on **Month 00, 2015**, in Department CX104 of the Orange County Superior Court (Complex Litigation Division), located at 751 West Santa Ana Boulevard, Santa Ana, California 92701. At the Fairness Hearing, the Court will consider whether the proposed Settlement is fair, reasonable, and adequate. The Court may also consider Class Counsel's request for attorneys' fees and costs, and the incentive awards. If there are objections, the Court will consider them. After the Fairness Hearing, the Court will decide whether to approve the proposed Settlement and how much to award to Class Counsel as fees and costs, and the incentive awards.

The Fairness Hearing may be moved to a different date or time without additional notice, so it is recommended that you periodically check www.SJHSDatabreachclassaction.com for updated information.

28. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. However, you are welcome to attend the hearing at your own expense. If you send in a written objection, you do not have to come to the Fairness Hearing to talk about it. As long as you mailed your valid written objection on time, the Court will consider it. You also may pay your own lawyer to attend the Fairness Hearing, but their attendance is not necessary.

29. May I speak at the hearing?

Yes. To speak at the Fairness Hearing, you must send a letter stating that it is your "Notice of Intention to Appear" in *St. Joseph Health System Medical Information Cases*, JCCP 4716. Be sure to include your name, address, telephone number, and your signature. Please send your Notice of Intent to Appear postmarked no later than **Month 00, 2015**, to the addresses listed in Question 25, along with the following information:

- a statement confirming that you want to speak at the Fairness Hearing;
- the name and address of your attorney (if you have one) that will appear at the Fairness Hearing; and
- a list of any witnesses you intend to call at the Fairness Hearing.

You cannot speak at the hearing if you exclude yourself from the settlement.

IF YOU DO NOTHING

30. What happens if I do nothing at all?

If you are a Settlement Class Member and do nothing, you will be legally bound by the Settlement, and will receive the payment due under the terms of the Settlement. You will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against SJHS about the claims in this case.

GETTING MORE INFORMATION

31. How do I get more information about the proposed Settlement?

This notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement at www.SJHSdatabreachclassaction.com. You also may write with questions to St. Joseph Health System Data Breach Settlement Administrator, P.O. Box 43356, Providence, RI 02940-3356. You can get claim forms and review additional documents on the website. You can also have claim forms, a copy of the settlement agreement, and a detailed notice mailed to you by calling the toll-free number, 1-877-219-9782.