

**IN THE COURT OF COMMON PLEAS OF
ALLEGHENY COUNTY, PENNSYLVANIA**

BARBARA A. DITTMAN, GARY R.
DOUGLAS, ALICE PASTIRIK,
JOANN DECOLATI, TINA
SORRENTINO, KRISTEN
CUSHMAN, and SHANNON
MOLYNEAUX, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

UPMC d/b/a THE UNIVERSITY OF
PITTSBURGH MEDICAL CENTER,
and UPMC MCKEESPORT,

Defendants.

: CIVIL DIVISION:
: NO. GD-14-003285
:
: **PLAINTIFFS' UNOPPOSED MOTION FOR**
: **PRELIMINARY APPROVAL OF CLASS**
: **ACTION SETTLEMENT, CONDITIONAL**
: **CLASS CERTIFICATION, AND FOR**
: **AUTHORIZATION OF CLASS NOTICE**
:
: CLASS ACTION
:
: Filed on behalf of all Plaintiffs
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CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing document and all attachments have been served upon all parties via electronic mail to the following, on July 15, 2021:

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Dated: July 15, 2021

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Counsel for Plaintiffs

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SORRENTINO, KRISTEN	:	CASE NO. GD-14-003285
CUSHMAN, and SHANNON	:	
MOLYNEAUX, individually and on	:	
behalf of all others similarly situated,	:	CLASS ACTION
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
UPMC d/b/a THE UNIVERSITY OF	:	
PITTSBURGH MEDICAL CENTER,	:	
and UPMC MCKEESPORT,	:	

Defendants.

**PLAINTIFFS’ UNOPPOSED MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION SETTLEMENT, CONDITIONAL
CLASS CERTIFICATION, AND FOR AUTHORIZATION OF CLASS NOTICE**

Plaintiffs Barbara Dittman, Gary Douglas, Alice Pastirik, Joann Decolati, Tina Sorrentino, Kristen Cushman, and Shannon Molyneaux respectfully move this Court for an order: 1) granting preliminary approval of the proposed Class Action Settlement Agreement and Release (“Agreement” or “SA”) between themselves and Defendants UPMC d/b/a The University of Pittsburgh Medical Center and UPMC McKeesport; 2) conditionally certifying a class action for purposes of settlement; and 3) authorizing the dissemination of notice to the Class Members. In support of their motion, Plaintiffs state as follows:

1. Plaintiffs initiated this case against Defendant UPMC on February 27, 2014, and filed the operative Second Amended Class Action Complaint on June 25, 2014, alleging claims of negligence and breach of contract.

2. On July 16, 2014, UPMC filed preliminary objections. On May 28, 2015, this

Court entered an order and opinion sustaining UPMC's preliminary objections and dismissing the entire complaint. Plaintiffs appealed to the Superior Court and sought reinstatement of their negligence claim. The Superior Court affirmed this Court's order on January 12, 2017. Plaintiffs then petitioned the Pennsylvania Supreme Court for allowance of appeal, which was granted on September 12, 2017. On November 21, 2018, the Supreme Court vacated the Superior Court's judgment, reversed this Court's dismissal order, and remanded.

3. Beginning in June 2020, the parties began settlement negotiations, which resulted in the completion and execution of a proposed Class Action Settlement Agreement and Release, attached as Exhibit A to this Motion.

4. The parties propose certification of a class for settlement purposes only, defined as follows: All persons who were employed by a UPMC entity and whose Personally Identifying Information was contained in or on the UPMC computer system and was potentially accessed, stolen, or compromised as a result of the Data Breach first announced by UPMC in February 2014.

5. The Settlement will provide total benefits worth up to \$2,650,000 to a class of roughly 66,000 individuals. The settlement benefits include: a) UPMC's payment of \$1,679,000 to establish a Settlement Fund for direct monetary relief to settlement class members, and the portion of administration costs, if any, in excess of \$200,000; b) up to \$200,000, paid separately by UPMC to a settlement administrator for actual costs of notice and settlement administration; c) up to \$21,000 in service award payments, of \$3,000 to each named plaintiff to the extent approved by the Court; and d) up to \$750,000 for plaintiffs' attorneys' fees and costs, to the extent approved by the Court.

6. Under the agreement, Settlement Class Members may submit claims for up to \$5,000 as reimbursement for unreimbursed, out-of-pocket fraud-related losses or up to \$250 as reimbursement for fraud-related inconveniences. Settlement Class Members who do not submit claims will receive equal distributions of all remaining funds after approved claims and the portion of any administration costs in excess of \$200,000 are paid from the Settlement Fund. These equal distributions are expected to be at least \$10–\$20 per non-claiming Class Member, and may be more depending on the number and value of approved claims submitted.

7. Certification of the proposed Settlement Class is warranted under Pa. R. Civ. P. 1702, 1708, and 1709 because the proposed class meets the requirements of numerosity, commonality, typicality, and fair and adequate representation, and a class action is a fair and efficient method of adjudicating and fully resolving the claims raised in this action.

8. Plaintiffs request appointment of the undersigned counsel as Class Counsel.

9. Plaintiffs additional request appointment of the named Plaintiffs as representatives of the Class.

10. Plaintiffs request approval of the proposed settlement agreement on the grounds that it falls within the range of reasonableness and that approval of this proposal will secure a monetary recovery for a significant number of individuals after seven years of litigation.

11. Plaintiffs request approval of the parties' proposed notice program, which contemplates individual notice to each Class Member to the extent possible, via both U.S. mail and electronic mail. The parties' proposed notices clearly inform Class Members of the terms of the settlement, their rights to submit claims, opt out, or object to the settlement, and the dates by which they must act. The parties will also cause the creation of a settlement website and toll-free phone number providing Class Members with comprehensive information about the Settlement.

12. Plaintiffs request the approval of Epiq Systems, Inc. as the settlement administrator to provide notice and administration services.

13. In further support of their motion, Plaintiffs refer the Court to their attached memorandum of law.

WHEREFORE, Plaintiffs respectfully request that the Court: 1) conditionally certify the proposed settlement class; 2) preliminary approve the proposed settlement agreement; and 3) approve the proposed notice program.

Dated: July 15, 2021

Respectfully submitted,

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