

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

BARB LHOTA, JORGE P. NEWBERY,
MONDUOUKPE SEYIVE BANI A MEDEGAN
FAGLA, CRISTINA HEER, MORGAN
STRUNSKY, QIXIN CHEN, BEICHEN SHI, and
RICHARD DELANO CORNELL, individually and
on behalf of all others similarly situated,

Plaintiffs,

v.

MICHIGAN AVENUE IMMEDIATE
CARE, S.C.

Defendant.

Case No. 2022-CH-06616

Judge: Hon. Pamela McLean Meyerson

Judge Pamela McLean Meyerson

AUG 15 2023

Circuit Court - 2097

**ORDER AND JUDGMENT GRANTING FINAL APPROVAL
OF CLASS ACTION SETTLEMENT**

On April 5, 2023, this Court entered an order granting preliminary approval (the "Preliminary Approval Order") of the Settlement between Plaintiffs Barb Lhota, Qixin Chen, Beichen Shi, Jorge Newbery, Mondoukpe Seyive Bani A Medegan Fagla, Cristina Heer, Morgan Strunsky and Richard Delano Cornell ("Plaintiffs"), on their own behalf and on behalf of the Settlement Class (as defined below), and Defendant Michigan Avenue Immediate Care, S.C. ("MAIC" or "Defendant," together with Plaintiffs, the "Parties"), as set forth in the Settlement Agreement between the Parties, attached as **Exhibit 1** to Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement.

On August 15, 2023, the Court held a final approval hearing to determine, *inter alia*: (1) whether the terms and conditions of the Settlement Agreement are fair, reasonable, and adequate for the release of the claims contemplated by the Settlement Agreement; and (2) whether judgment should be entered dismissing this Lawsuit with prejudice. Prior to the final approval hearing, a

declaration of compliance with the provisions of the Settlement Agreement and Preliminary Approval Order relating to notice was filed with the Court as required by the Preliminary Approval Order. Therefore, the Court is satisfied that Settlement Class Members were properly notified of their right to appear at the final approval hearing in support of or in opposition to the proposed Settlement Agreement, the award of attorneys' fees, costs, and expenses to Settlement Class Counsel, and the payment of Service Awards to Class Representatives.

Pursuant to 735 ILCS 5/2-805, having given an opportunity to be heard to all requesting persons in accordance with the Preliminary Approval Order, having heard the presentation of Settlement Class Counsel and counsel for MAIC, having reviewed all of the submissions presented with respect to the proposed Settlement Agreement, having determined that the Settlement Agreement is fair, reasonable, and adequate, having considered the application made by Settlement Class Counsel for attorneys' fees, costs, and expenses, and the application for Service Awards to Plaintiffs, and having reviewed the materials in support thereof, and good cause appearing:

IT IS HEREBY ORDERED THAT:

1. Unless defined herein, all capitalized terms in this Order and Judgment Granting Final Approval of Class Action Settlement ("Final Order and Judgment") shall have the meanings ascribed to them in the Settlement Agreement.

2. This Court has subject matter jurisdiction of these Lawsuits and over all claims raised therein and all Parties thereto, including the Settlement Class.

3. The Settlement Agreement was entered into in good faith following arms' length negotiations and is non-collusive. The Parties agreed to engage in a mediation to try to settle the Lawsuits. The Parties engaged in a full day mediation before Hon. Stuart Palmer of JAMS. As a result of the mediation, the Parties agreed to settle this Lawsuit and the related Lawsuits captioned,

(1) *Chen et al. v. Michigan Avenue Immediate Care, S.C.*, Case No. 2022-CH-07101 (Ill. Cir. Ct. Cook Cnty.) (2) *Newberry v. Michigan Avenue Immediate Care, S.C.*, Case No. 2022-07128 (Ill. Cir. Ct. Cook Cnty.); (3) *Seyive Bani A Medegan Fagla et al. v. Michigan Avenue Immediate Care, S.C.*, Case No. 2022-CH-07692 (Ill. Cir. Ct. Cook Cnty.); and (4) *Cornell v. Michigan Avenue Immediate Care, S.C.*, Case No. 1:22-cv-03885 (N.D. Ill.) without any admission of liability on the terms set forth herein.

4. The Settlement Agreement is, in all respects, fair, reasonable, and adequate, is in the best interests of the Settlement Classes, and is, therefore, approved. The Court finds that the Parties faced significant risks, expenses, delays, and uncertainties, including as to the outcome and potential appeal, of continued litigation of this complex matter, which further supports the Court's finding that the Settlement Agreement is fair, reasonable, adequate and in the best interests of the Settlement Class Members. The Court finds that the uncertainties of continued litigation in both the trial and appellate courts, as well as the expense associated with it, weigh in favor of approval of the settlement reflected in the Settlement Agreement.

5. This Court grants final approval of the Settlement Agreement, including, but not limited to, the releases in the Settlement Agreement, including all Released Claims, and the plans for implementation and distribution of the settlement benefits. The Court finds that the Settlement Agreement is in all respects fair, reasonable, adequate, and in the best interests of the Settlement Class. Therefore, all Settlement Class Members who have not opted out of the Settlement Class are bound by this Final Approval Order and Judgment, approving the Settlement Agreement.

6. The Parties shall effectuate the Settlement Agreement in accordance with its terms. The Settlement Agreement and every term and provision thereof shall be deemed incorporated herein as if explicitly set forth herein and shall have the full force of an Order of this Court.

OBJECTIONS AND OPT-OUTS

7. Zero objections were filed by Settlement Class Members.

8. All Settlement Class Members are deemed to have waived any objections by appeal, collateral attack, or otherwise.

9. A list of those putative Class Members who have timely and validly elected to opt out of the Settlement Agreement and the Settlement Class, and who therefore are not bound by the Settlement Agreement and this Final Order and Judgment is attached as **Exhibit A** to this Order. The Opt-Outs listed in **Exhibit A** are not bound by the Settlement Agreement and this Final Order and Judgment and shall not be entitled to any of the benefits afforded to the Settlement Class Members under the Settlement Agreement.

CLASS CERTIFICATION

10. For purposes of the Settlement Agreement and this Final Order and Judgment only, the Court hereby finally certifies the following Settlement Class as follows:

Settlement Class: All persons whose PII and/or PHI was potentially compromised in the cybersecurity incident involving Michigan Avenue Immediate Care, S.C.'s ("MAIC") computer network in May 2022, and who MAIC provided the Notice of Data Incident that MAIC published on June 30, 2022.

11. Excluded from the Settlement Classes are:

(i) officers and directors of MAIC and/or the Related Entities; (ii) all Settlement Class Members who timely and validly request exclusion from the Settlement Class; (iii) members of the judiciary who have presided or are presiding over this matter and their families and staff; and (iv) any other Person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding, or abetting the criminal activity occurrence of the Data Incident or who pleads *nolo contendere* to any such charge.

12. The Court readopts and incorporates herein by reference its preliminary conclusions as to the satisfaction of the requirements for class certification set forth in 735 ILCS 5/2-801 and the Preliminary Approval Order, and notes again that because this certification of the Settlement Class is in connection with the Settlement Agreement, rather than litigation, the Court need not address any issues of manageability that may be presented by certification of the Settlement Class proposed in the Settlement Agreement.

APPOINTMENTS

13. The Court grants final approval to the appointment of Plaintiffs Barb Lhota, Qixin Chen, Beichen Shi, Jorge Newbery, Mondoukpe Seyive Bani A Medegan Fagla, Cristina Heer, Morgan Strunsky and Richard Delano Cornell as Class Representatives. The Court concludes that the Class Representatives have fairly and adequately represented the Settlement Classes and will continue to do so.

14. The Court grants final approval to the appointment of Turke and Strauss LLP; Wolf Haldenstein Adler Freeman & Herz, LLC; Milberg Coleman Bryson Phillips Grossman, PLLC, and Zimmerman Law Offices, P.C. The Court concludes that Settlement Class Counsel has adequately represented the Settlement Class and will continue to do so.

NOTICE TO THE CLASS

15. The Court finds that the Notice Program, set forth in the Settlement Agreement and effectuated pursuant to the Preliminary Approval Order, was necessary to protect the interests of the Settlement Classes and the Parties, was the best notice practicable under the circumstances, was reasonably calculated to provide and did provide due and sufficient notice to the Settlement Classes of the pendency of the Lawsuits, certification of the Settlement Classes for settlement purposes only, the existence and terms of the Settlement Agreement, and their right to object and

to appear at the Final Approval Hearing or to exclude themselves from the Settlement Agreement, and satisfied the requirements of 735 ILCS 5-2/803, the United States Constitution, the Illinois State Constitution, and other applicable law.

16. The costs of the Settlement Administrator, including the Notice Program, are capped at \$163,537.00

AWARD OF ATTORNEYS' FEES AND SERVICE AWARDS

17. The Court has considered Settlement Class Counsel's Motion for Attorneys' Fees, Costs, Expenses, and Service Awards. The Court awards Settlement Class Counsel the sum of \$297,500 in attorneys' fees and \$9,114.83 in expenses to be paid in accordance with the Settlement Agreement, and the Court finds this amount of fees and costs to be fair and reasonable.

18. The Court grants Settlement Class Counsel's request for Service Awards to Class Representatives and awards \$1,000.00 each to Plaintiffs Barb Lhota, Qixin Chen, Beichen Shi, Jorge Newbery, Mondoukpe Seyive Bani A Medegan Fagla, Cristina Heer, Morgan Strunsky and Richard Delano Cornell (for a total of \$8,000.00). The Court finds that this payment is justified by their service to the Settlement Class. This payment shall be paid in accordance with the Settlement Agreement.

RELEASES

19. On the Effective Date and in consideration of the promises and covenants set forth in this Settlement Agreement, (i) Plaintiffs and each Settlement Class Member, and each of their respective spouses and children with claims on behalf of the Settlement Class Member, executors, representatives, guardians, wards, heirs, estates, successors, predecessors, co-borrowers, co-obligors, co-debtors, legal representatives, attorneys, agents, and assigns, and all those who claim through them or who assert claims (or could assert claims) on their behalf (including the

government in the capacity as *parens patriae* or on behalf of creditors or estates of the releasors), and each of them (collectively and individually, the "Releasing Persons"), and (ii) Settlement Class Counsel and each of their past and present law firms, partners, or other employers, employees, agents, representatives, successors, or assigns will be deemed to have, and by operation of the Final Order and Judgment shall have fully, finally, completely, and forever released and discharged the Released Persons from the Released Claims. The release set forth in the preceding sentence (the "Release") shall be included as part of any judgment, so that all Released Claims shall be barred by principles of *res judicata*, collateral estoppel, and claim and issue preclusion.

20. As of the Effective Date, the Released Persons are deemed, by operation of the entry of the Final Order and Judgment, to have fully released and forever discharged Plaintiffs, the Settlement Class Members, Settlement Class Counsel, or any other counsel representing Plaintiffs or Settlement Class Members, or any of them, of and from any claims arising out of the Lawsuits or the Settlement. Any other claims or defenses MAIC or other Released Persons may have against Plaintiffs, the Settlement Class Members, Settlement Class Counsel, or any other counsel representing Plaintiffs' or Settlement Class Members, including, without limitation, any claims based upon or arising out of any employment, debtor-creditor, contractual, or other business relationship that are not based upon or do not arise out of the institution, prosecution, assertion, settlement, or resolution of the Lawsuits or the Released Claims are not released, are specifically preserved and shall not be affected by the preceding sentence.

21. As of the Effective Date, the Released Persons are deemed, by operation of entry of the Final Order and Judgment, to have fully released and forever discharged each other of and from any claims they may have against each other arising from the claims asserted in the Lawsuits, including any claims arising out of the investigation, defense, or Settlement of the Lawsuits.

22. Nothing in the Release shall preclude any action to enforce the terms of the Settlement Agreement, including participation in any of the processes detailed therein.

23. "Related Entities" means MAIC's past or present parents, subsidiaries, divisions, and related or affiliated entities, and each of MAIC's and their respective predecessors, successors, directors, officers, employees, principals, agents, attorneys, insurers, and reinsurers, and includes any Person who is found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, or aiding or abetting the criminal activity associated with the Data Incident or who pleads *nolo contendere* to any such charge.

24. "Released Claims" means any and all past, present, and future claims, causes of action, counterclaims, lawsuits, rights, demands, charges, complaints, actions, obligations, or liabilities under any legal or equitable theory, whether known or Unknown (as the term "Unknown Claims" is defined in the Settlement Agreement), suspected, or unsuspected or capable of being known or suspected, asserted or unasserted, liquidated or unliquidated, legal, administrative, statutory, or equitable, and whether, accrued, unaccrued, matured, or not matured, including, but not limited to, negligence; negligence per se; negligent training and supervision; breach of fiduciary duty; breach of confidence; invasion of privacy; breach of contract; unjust enrichment; breach of implied contract; breach of the implied covenant of good faith and fair dealing; intrusion upon seclusion; public disclosure of private facts; the Illinois Consumer Fraud and Deceptive Business Practices Act and any other state or federal consumer protection statute; misrepresentation (whether fraudulent, negligent, or innocent); bailment; wantonness; failure to provide adequate notice pursuant to any breach notification statute, regulation, or common law duty; and any causes of action under any statutes in effect in any states in the United States; and including, but not limited to, any and all claims for damages, injunctive relief, disgorgement,

declaratory relief, equitable relief, attorneys' fees, costs and expenses, set-offs, losses, pre-judgment interest, credit monitoring services, the creation of a fund for future damages, statutory damages, punitive damages, special damages, exemplary damages, restitution, the appointment of a receiver, and any other form of relief that either has been asserted, or could have been asserted, by any Participating Settlement Class Member against any of the Released Persons based on, relating to, concerning, or arising out of the Data Incident and alleged exposure and compromise of any Settlement Class Member's private information, personally identifiable information, and/or protected health information or any other allegations, facts, or circumstances described in the Actions. Released Claims shall not include the right of any Participating Settlement Class Member or any of the Released Persons to enforce the terms of the Settlement contained in this Settlement Agreement.

25. "Released Persons" means MAIC and the Related Entities.

OTHER PROVISIONS

26. The Parties to the Settlement Agreement shall carry out their respective obligations thereunder,

27. Within the time period set forth in the Settlement Agreement, the benefits provided for in the Settlement Agreement shall be made available to the various Settlement Class Members submitting Valid Claim Forms, on approved Claims, pursuant to the terms and conditions of the Settlement Agreement.

28. Neither this Final Order and Judgment, nor the Settlement Agreement, nor any act performed or document executed pursuant to or in furtherance of the Settlement Agreement or the Settlement shall (i) constitute or be construed as an admission of the merit or validity of any claim or any fact alleged in the Lawsuits or of any wrongdoing, fault, violation of law, or liability of any

kind on the part of MAIC or the Released Persons or any admission by MAIC or the Released Persons with respect to any claim or allegation made in any action or proceeding or any concession as to the merit of any of the claims asserted by Plaintiffs in the Lawsuits, or (ii) be offered or be admissible in evidence against any Party or the Released Persons or be cited or referred to in any action or proceeding, except in an action or proceeding brought to enforce its terms. Nothing stated herein is or shall be construed or admissible as an admission by MAIC or the Released Persons that Plaintiffs' claims or any similar claims are suitable for class treatment outside of this Settlement.

29. This Final Order and Judgment and the Settlement Agreement, and all acts, statements, documents, or proceedings relating to the Settlement Agreement are not, and shall not be construed as, used as, or deemed to be evidence of, an admission by or against MAIC of any claim, any fact alleged in the Lawsuits, any fault, any wrongdoing, any violation of law, or any liability of any kind on the part of MAIC or of the validity or certifiability for litigation of any claims that have been, or could have been, asserted in the action.

30. The Court hereby dismisses the Complaint and all claims therein on the merits and with prejudice, without fees or costs to any Party, except as provided in this Final Order and Judgment.

31. Consistent with Paragraph 65 of the Settlement Agreement, if the Effective Date, as defined in the Settlement Agreement does not occur for any reason, then (i) the Settlement Agreement and all orders entered in connection therewith shall be rendered null and void; (ii) the terms and provisions of the Settlement Agreement shall have no further force and effect with respect to the Parties and shall not be used in the Lawsuits or in any other proceeding for any purpose, and any judgment or order entered by the Courts in accordance with the terms of the

Settlement Agreement shall be treated as vacated, *nunc pro tunc*; (iii) MAIC shall be responsible for all Notice and Claims Administration Costs incurred prior to the termination or disapproval; (iv) all Parties shall be deemed to have reverted to their respective positions and status in the Lawsuits as of the date this Settlement Agreement was executed and shall jointly request that a new case schedule be entered by the Courts in the Lawsuits; and (v) MAIC shall have no payment, reimbursement, or other financial obligation of any kind as a result of this Settlement Agreement, other than as stated in Sub-Part (iii) above.

32. This Court shall retain the authority to issue any order necessary to protect its jurisdiction from any action, whether in state or federal court.

33. Without affecting the finality of this Final Order and Judgment, the Court will retain jurisdiction over the subject matter and the Parties with respect to the interpretation and implementation of the Settlement Agreement for all purposes.

Subject to the above, this is a final order disposing of all matters.

IT IS SO ORDERED.

Judge Pamela McLean Meyerson

AUG 15 2023

Circuit Court – 2097

Dated: _____



THE HONORABLE PAMELA
McLEAN MEYERSON
CIRCUIT COURT JUDGE