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10 Attorneys for Plaintiffs and the Class

11 **SUPERIOR COURT THE STATE OF CALIFORNIA**
12 **COUNTY OF SISKIYOU**

13 JANE DOE, ESTHER BURCH, ELISABETH
14 SCHWAB, NICHOLAS J. SMITH and TARA F.
SMITH, on behalf of themselves and all others
similarly situated,

15 Plaintiffs

16 vs.

17 SISKIYOU HOSPITAL, INC. d/b/a FAIRCHILD
18 MEDICAL CENTER, a California Corporation; and
DOES 1 through 100, inclusive;

19 Defendants.
20

Case No. CVCV21-49

CLASS ACTION

**DECLARATION OF PATRICK N. KEEGAN
IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT AND
CERTIFICATION OF A SETTLEMENT
CLASS**

Date: December 30, 2021

Time: 9:30 a.m.

Dept: 2

21 I, Patrick N. Keegan, declare as follows:

22 1. I am an attorney at law duly authorized to practice law in the State of California. I am a
23 member of the law firm of Keegan & Baker, LLP, counsel for Plaintiffs Jane Doe, Esther Burch, Elisabeth
24 Schwab, Nicholas J. Smith and Tara F. Smith (collectively referred to as "Plaintiffs"). I have personal
25 knowledge of the following facts and if called upon as a witness I could and would competently testify to
26 the matters stated herein.

27 2. This declaration is made in support of the unopposed Motion for Preliminary Approval of
28 the proposed Class Action Settlement between Plaintiffs and Defendant Siskiyou Hospital, Inc. d/b/a

1 Fairchild Medical Center (“FMC” or “Defendant”) on behalf of a proposed Class defined as “*All persons*
2 *who were mailed a letter sent on behalf of Siskiyou Hospital, Inc. d/b/a Fairchild Medical Center entitled*
3 *Notice of Data Breach, dated on or about November 25, 2020*” (the “Class”), excluding officers and
4 directors of Defendant who received a Notice of Data Breach, pursuant to the Class Action Settlement
5 Agreement (“Settlement Agreement”), a true and correct copy of which is attached hereto as Exhibit A. By
6 such unopposed motion, Plaintiffs seek an order conditionally certifying the Class and grant preliminary
7 approval of the settlement as fair, reasonable, and adequate, allow notice to issue, and schedule proceedings
8 for final approval of the settlement.

9 Summary of the Proposed Settlement and Recommendation of Plaintiffs’ Counsel

10 3. Plaintiffs, individually and on behalf of a putative Class of approximately 39,700 individuals
11 whose confidential medical information with FMC was alleged to have accessed and/or viewed by an
12 unknown, unauthorized third party, have reached an agreement with FMC to settle all claims in this
13 litigation. The proposed settlement is the result of arm's-length bargaining between experienced counsel who
14 understood the strengths and weaknesses of their positions in this case. The negotiations, informed in part
15 by an exchange of informal discovery, took place during a full day under the supervision of a neutral and
16 experienced mediator, Hon. Jay C. Gandhi (Ret.), and the parties spent significant time thereafter in
17 negotiating the final terms of the settlement. The settlement provides for three years of credit monitoring
18 and identity theft protection services and a pro-rata cash payment to those who submit a claim form from
19 a cash payment of \$1,150,000 (the “Settlement Fund”), from which notice and administration costs, service
20 award payments and attorney's fees and litigation expenses, subject to approval by this Court will be paid,
21 and a commitment by FMC to improve its data security practices. Specifically, if the Court grants final
22 approval, the Settlement will provide the following benefits to the Class:

- 23 • **Identity Theft Protection:** Three (3) years of Identity Theft Protection Package, including identity
24 theft insurance of up to \$1 million, which is valued by Class Counsel at \$28,569,708 for the entire
25 Class.
- 26 • **Cash Payment:** For those who submit a valid and timely claim form, a pro-rata cash distribution
27 of the funds remaining in the Settlement Fund after payment of attorneys' fees, costs, expenses, and
28 other amounts approved or ordered by the Court.
- **Remedial Measures:** Additional data security measures to be taken by FMC, including
cybersecurity infrastructure, security trainings, and privacy and security risk assessments, valued
by FMC at approximately \$145,000, implemented by FMC as a result of this action.

1 4. In summary, the Settlement is estimated to confer a **total settlement value of approximately**
2 **\$30 million** to the Class as a whole, an estimate that Defendant does not dispute. Class is ascertainable
3 because all settlement Class Members were and are patients of FMC, have been or can be identified by FMC
4 through FMC's patient files, and each Class member was mailed a letter sent on behalf of FMC entitled
5 Notice of Data Breach, dated on or about November 25, 2020. As provided for in the Settlement
6 Agreement¹, Class members will receive a written notice sent by U.S. Mail to their last known address based
7 on FMC's patient records. A copy of the proposed Class notice is attached to the Settlement Agreement as
8 Exhibit 1. The proposed Class notice fully and fairly describes the settlement, the claims process and the
9 right to opt out. The Settlement Administrator, ILYM Group, Inc., will also create a website for the
10 settlement and post the Class notice there, among other details, including the dates and deadlines pertaining
11 to the settlement and will make important case documents available for review and download. The Parties
12 agree that the Settlement Administrator will be ILYM Group, Inc. Attached hereto as Exhibit B is a true
13 and correct copy of the firm curriculum vitae of ILYM Group, Inc. As provided for in the Settlement
14 Agreement, the Settlement Administrator's fees and costs, which may be up to but will not exceed \$100,000,
15 include the costs of mailing notice and appropriate follow up on undeliverable mail, design, set up and
16 maintenance of a dedicated settlement website, cost of distributing and administering the benefits of the
17 Settlement Agreement, a dedicated call number with return calls to be made within 24 hours for Class
18 member assistance and questions, will be paid from the Settlement Fund.

19 5. Co-Counsel and I submit that the settlement is comfortably in the range of reasonableness,
20 that the Class should be certified for settlement purposes, and that the notice and approval procedures are
21 fair and designed to inform the Class Members of their rights and to inform the Court of the views of the
22 Class. Importantly, while the Notice of Data Breach letter that Plaintiffs and the Class received from FMC
23 indicated that as a result of the data breach, they may be at risk for identity theft, FMC did not offer free
24 credit monitoring or identity theft protection services. The proposed settlement here would provide three
25 years of credit monitoring and identity theft protection services to every member of the Class, as well as
26 pro-rata cash payments for those who submit a valid and timely claim form from the Settlement Fund of
27 \$1,150,000, which will also cover notice and administration costs, Class Counsels' Fees and Expenses, and

28 _____
¹ Section II typographic errors corrected are highlighted.

1 Class Representatives' Incentive Awards, as approved by the Court. To date, Class Counsel has not
2 received any payment for their services in conducting this litigation on behalf of Plaintiffs and members of
3 the Class, nor have Plaintiffs' counsel been reimbursed for their out-of-pocket expenses, including costs of
4 the mediation. In addition to Class Counsels' fees and costs, Plaintiffs seek an incentive award of \$5,000
5 for each of the named Plaintiffs to compensate them for (1) their willingness to serve, without which there
6 would be no case, and (2) the time and effort they invested in this litigation. Moreover, the retail price of
7 the Identity Theft Protection Package for three years is approximately \$719.64. Additionally, the pro-rata
8 cash payments to those who submit a valid and timely claim are estimated to be fifty dollars (\$50.00), based
9 on past claims rates in similar cases and if the Court approves all of the amounts that will be requested to
10 be paid from the Settlement Fund. This settlement comes after significant efforts to mediate Plaintiffs'
11 claims, which has ultimately resulted in a settlement that is better for all parties than continued litigation.
12 The settlement is plainly within the range of reasonableness.

13 6. The settlement fairly takes into account the significant risks associated with pursuing this
14 litigation further. Those risks include, by way of example only, denial or limitation of class certification,
15 key factual and legal disputes as to the viability of Plaintiffs' claims under California's Confidentiality of
16 Medical Information Act, Cal. Civ. Code § 56.10, et seq. ("CMIA"), and the risk of loss on the merits at
17 trial. Additionally, the resolution of the claims of the approximately 39,700 putative Class members in one
18 action is undoubtedly superior to litigating their claims piecemeal as several thousand small claims or
19 superior court actions. This class action settlement serves the interest of judicial economy and avoids
20 potential inconsistent and contradictory results between the Class Members. Accordingly, Plaintiffs
21 respectfully request that the Court preliminarily approve the settlement as fair, reasonable, and adequate,
22 allow notice to issue, and schedule proceedings for final approval of the settlement.

23 **Summary of Relevant Prior Proceedings and Plaintiffs' Allegations**

24 7. Each of the Plaintiffs received a letter sent on behalf of FMC, entitled Notice of Data
25 Breach, dated November 25, 2020, substantially similar to the exemplar Notice of Data Breach letter
26 submitted to the State of California, and each is a former patient of FMC, and a named party to this action.
27 On January 19, 2021, Plaintiffs Jane Doe, Esther Burch, and Elisabeth Schwab were the file a Class Action
28 Complaint against FMC concerning this data breach incident with this Court, initiating this case. Prior to

1 January 19, 2021, I was first retained by Plaintiff Nicholas J. Smith, and then thereafter, all other Plaintiffs.
2 On on or about October 29, 2021, Plaintiffs filed an Amended Class Complaint for Damages and Injunctive
3 Relief (“Amended Class Action Complaint”) in this case, asserting claims against FMC for (1) violations
4 of the California Confidentiality of Medical Information Act, Cal. Civ. Code §§ 56, et seq. (“CMIA”), and
5 (2) violations of Business & Professions Code §§ 17200, et seq. (the “UCL”), and seeking to certify the
6 Class and the appointment of Potter & Handy, LLP and Keegan & Baker, LLP as Class Counsel to represent
7 the Class Members.

8 8. In the Amended Class Action Complaint, California law requires that medical providers like
9 FMC maintain the confidentiality of their patients' medical information, and California law prohibits the
10 disclosure of such information without their patients' written authorization. FMC also committed and
11 promised in its Patient Rights document that, other than for specific uses and disclosures not applicable here,
12 “Confidential treatment of all communications and records pertaining to your care and stay in the hospital,”
13 and in its Notice of Privacy Practices, “We understand that medical information about you and your health
14 is personal. We are committed to protecting medical information about you.” In its Notice of Privacy
15 Practices, FMC acknowledges its legal obligation to ensure patient privacy: “We are required by law to:
16 Make sure that medical information that identifies you is kept private.”

17 9. In the Amended Class Action Complaint, Plaintiffs allege that FMC collects, generates, and
18 stores sensitive personal and medical information about its patients. That information includes, but is not
19 limited to, medical images, patient's names, dates of birth, patient identification numbers, exam
20 identification numbers, their the names of their licensed medical providers, and the dates of their exam.
21 Plaintiffs allege that FMC represented to its patients in its online Privacy Notice that disclosures of medical
22 information, aside from inapplicable uses and disclosures, would only be made with its patients' written
23 permission. Plaintiffs further allege that in the November 25, 2020 Notice of Data Breach letter, FMC
24 began notifying the Class that their sensitive and private personal and medical information contained on a
25 picture archiving and communications system (PACS) server may have been accessed by an unknown,
26 unauthorized third party. Plaintiffs allege that this unauthorized access was the result of FMC's failure to
27 take necessary security protections necessary to protect its patients' private and personal medical
28 information.

1 10. In the Amended Class Action Complaint, Plaintiffs allege that from December 16, 2015 to
2 July 31, 2020, unauthorized individuals could have accessed the PACS server, which contained sensitive
3 personal and medical information about FMC patients. Based upon Plaintiffs’ investigations, FMC’s
4 investigations, and discovery conducted during this litigation, Plaintiffs contend that FMC was alerted to
5 the vulnerability of its network servers, only to recognize that its patient information was no longer properly
6 kept private. It was determined that due to a misconfiguration of the FMC PACS server, the private medical
7 information of approximately 39,700 putative Class members’ was subject to unauthorized access or
8 viewing. Plaintiffs allege that this resulted in an unauthorized release of Class members Personal Health
9 Information (“PHI”) and Personal Identifying Information (“PII”), in violation of California’s Confidential
10 Medical Information Act, California Civil Code §§ 56, et seq. (“CMIA”). If proven, CMIA violations give
11 rise to statutory damages of \$1,000 per Class member. Civ. Code § 56.36. Prior to the mediation, Plaintiffs
12 propounded formal discovery and in preparing for this mediation, Plaintiffs informally requested additional
13 documentation and specifics from FMC about this incident, its investigation, and the types of PHI and PII
14 disclosed. For example, I, on behalf of Nicholas J. Smith, sent FMC a letter on December 21, 2020
15 demanding that FMC provide, inter alia, a detailed description and copies of all of Nicholas J. Smith’s and
16 Tara F. Smith’s information contained in FMC’s database server “from approximately December 16, 2015
17 to July 31, 2020 that allowed external individual(s) access to the server” as determined by FMC’s
18 investigation. FMC subsequently complied with Mr. Smith’s demand (on February 16, 2021) by producing
19 hundreds of documents containing Nicholas J. Smith’s and Tara F. Smith’s PHI and PII, including medical
20 images, individual names, dates of birth, the ordering providers, and the dates of medical exams, i.e. medical
21 information that is covered by the CMIA. Thus, Plaintiffs allege that the same types of PHI and PII was
22 exposed for all Class members who were sent a notice of data breach letter by FMC.

23 **My Qualifications for Appointment as Class Counsel**

24 11. I was admitted to the California Bar in 1993. I received my Bachelor of Arts degree in
25 Political Science from California State University, Long Beach in 1989 and my Juris Doctor degree from
26 California Western School of Law in 1993. From 1993 through 2002, I was an associate of Krause &
27 Kalfayan, a firm specializing in antitrust, consumer, and securities fraud class action litigation. In 2003,
28 I became a founding member of Keegan & Baker, LLP (formally Keegan, Macaluso & Baker, LLP) a San

1 Diego-based law firm with a concentration in complex civil litigation in the areas of antitrust, consumer
2 fraud, employment, corporate, partnership, real estate, and securities law.

3 12. Throughout my career, I have specialized in complex commercial and class action litigation.
4 I have been involved in every stage of class action litigation. In connection with these prior class actions,
5 I have conducted discovery, argued motions, drafted pleadings, drafted class notices, examined witnesses,
6 represented class members at settlement conferences, deposed defendants and third party witnesses,
7 defended class representative depositions and participated in final disposition hearings. I have also tried
8 class action cases. In 2003, I acted as co-lead counsel and co-trial counsel, in a class action entitled *Jason*
9 *A. Park v. Cytodyne Technologies, Inc.*, Case No. GIC 768364, [2003 WL 21283814], (Super. Ct. Cal. San
10 Diego Cnty.), asserting claims under the Unfair Competition Laws (Business and Professions Code §§
11 17200 and 17500) in which a total judgment of \$18,080,742.14 in restitution, attorneys' fees and costs, and
12 additional prohibitive injunctive relief on behalf of the certified class was obtained after a 7 week trial.

13 13. I also have exceptional experience in class action cases alleging violations of the CMIA,
14 which have secured significant recoveries for the victims. For example, in a similar consolidated class action
15 case asserting CMIA claims, entitled *D'Angelo Santana, et al. v. Rady Children's Hospital-San Diego*, Case
16 No. 37-2014-00022411-CU-MT-CTL (Super. Ct. Cal. San Diego Cnty.), I was appointed co-lead counsel,
17 successfully opposed a motion for summary judgment, obtained the second-ever decision granting a
18 contested motion to certify a class of data breach victims under the CMIA, and thereafter, achieved a
19 landmark data breach settlement.

20 14. Additionally, I have acted as lead or co-lead counsel on behalf of plaintiffs in certified class
21 actions alleging violations of the CMIA resulting in significant recoveries, in the following cases:

22 (1) *Marta Madrid, et al. v. Golden Valley Health Centers*, Case No. 20-CV-01487, Merced
23 County Superior Court (Judge Brian McCabe) (settlement for violations of Confidentiality of
24 Medical Information Act (Civil Code § 56, *et seq.*), and Business & Professions Code § 17200, *et*
25 *seq.*, for the benefit of approximately 39,700 consumers in the form of \$28,569,708 of credit
26 monitoring and identity theft protection packages, \$1,350,000 cash payment, and \$415,000 in
27 remedial measures, for a total value of over \$30 million in 2021).

28 (2) *D'Angelo Santana, et al. v. Rady Children's Hospital-San Diego*, Case No.
37-2014-00022411-CU-MT-CTL, San Diego County Superior Court (Judge Joel R. Wohlfeil)
(settlement for violations of Confidentiality of Medical Information Act (Civil Code § 56, *et seq.*),
and Business & Professions Code § 17200, *et seq.*, for the benefit of approximately 14,100
consumers in the form of \$6,764,616 of credit monitoring and identity theft protection packages,
\$5,000,000 cash payment, and \$1,800,000 in remedial measures, for a total value at over \$13.5
million in 2019).

1 (3) *Eileen Johansson-Dohrmann, et al., v. CBR Systems, Inc.*, Case No. 12-cv-01115-MMA-
2 BGS, United States District Court, Southern District of California (Judge Michael M. Anello)
3 (settlement for violations of Confidentiality of Medical Information Act (Civil Code § 56, *et seq.*),
4 Invasion of Privacy, Civil Code § 1798.80, *et seq.*, Breach of Contract, and Business & Professions
Code § 17200, *et seq.*, for the benefit of approximately 286,494 consumers in the form of credit
monitoring and identity theft protection, reimbursement of out-of-pocket expenses, and identity theft
reimbursement valued at over \$113 million and injunctive relief in 2013).

5 15. I have also acted as lead or co-lead counsel on behalf of plaintiffs in certified class actions
6 involving the litigation of employment law claims resulting in significant recoveries in the following recent
7 cases:

8 (1) *Martin Marine, et al., v. Interstate Distributor Co.*, Case No. RG07358277, Alameda
9 Superior Court (Judge Winifred Y. Smith) (represented employees of Interstate Distributor Co. in
the position of local hourly driver, and obtained a settlement of \$2,650,000 in 2016).

10 (2) *4G Wireless Wage and Hour Cases*, JCCP No. 4736, Orange County Superior Court (Judge
11 Gail A. Andler) (represented employees of 4G Wireless in the position of Store Managers, and
obtained a settlement of \$900,000 for 236 Class members in 2014).

12 (3) *Jose Alvarez, et al., v. Action Freight Services, Inc., et al.*, Case No. FCS036787, Solano
13 County Superior Court (Judge Harry S. Kinnicutt) (obtained a settlement on behalf of 36 truck
drivers that delivered products to National Tire Warehouse who were classified as independent
14 contractors in 2013).

15 (4) *Marshall Brewer, et al., v. Hennessey's Tavern, Inc.*, Case No. 37-2008-00090677, San
16 Diego Superior Court (Judge Jeffrey B. Barton) (represented employees of Hennessey's Tavern in
the position of Assistant Manager in an action asserting violations of the California Labor Code and
the Unfair Competition Laws (Section 17200 of the Business and Professions Code), and obtained
17 a settlement of \$1,637,000 for 29 Class and 54 Release Sub-Class members in 2012).

18 (5) *Frank Stanndard, et al., v. Southern California Edison Company*, Case No. 97-CV-1116 TW
19 (JAH), United States District Court, Southern District of California (Judge Thomas Whelan) (sealed
settlement reached on behalf of an opt-in class of employees in an action asserting violations of
FLSA in 2010).

20 (6) *In re LivHome, Inc. Wage and Hour Cases*, JCCP 4570, San Diego Superior Court, Central
21 Division (Judge Jeffrey B. Barton)(represented employees of LivHome in the position of Caregiver
in an action asserting violations of the California Labor Code and the Unfair Competition Laws
(Section 17200 of the Business and Professions Code), and obtained a settlement which provided
22 1,019 claimants *with a net recovery of 100%* of the value of their claims in 2010).

23 (7) *Ann Baskall, et al., v. KFC U.S. Properties, Inc.*, Case No. 37-2007-00084348-CU-OE-CTL,
24 San Diego Superior Court, Central District (Judge Steven R. Denton) (represented employees of
KFC in an action asserting violations of California Labor Code and the Unfair Competition Laws
(Section 17200 of the Business and Professions Code), and obtained a claims-made settlement of
25 \$4.75 million for 1,963 class members in 2009).

26 (8) *Griselda Patterson, et al., v. Best American Hospitality, Inc.*, Case No. BC377173, Los
27 Angeles Superior Court (Judge Charles F. Palmer) (represented employees of Best American
Hospitality, Inc. in an action asserting violations of California Labor Code and the Unfair
28 Competition Laws (Section 17200 of the Business and Professions Code), and obtained a claims-
made settlement of \$2.5 million for class members in 2009).

1 (9) *Fontenette, et al., v. Certified Tire & Service Centers, Inc.*, Case No. GIC881509, San Diego
2 Superior Court, Central District, (Judge Yuri Hofmann) (represented employees of Certified Tire
3 & Service Centers, Inc. in an action asserting violations of California Labor Code and the Unfair
4 Competition Laws (Section 17200 of the Business and Professions Code), and obtained a claims-
5 made settlement of \$1.6 million for 459 class members in 2008).

6 (10) *Robert Kritz, et al. v. Fluid Components, Inc., et al.*, Case No. GIN057142, San Diego
7 Superior Court, North County Division, (Judge Robert P. Dahlquist) (represented employees of
8 Fluid Components Inc. in an action asserting violations of California Labor Code and the Unfair
9 Competition Laws (Section 17200 of the Business and Professions Code), and obtained a claims-
10 made settlement of \$1.5 million for 199 class members in 2008).

11 (11) *Wathik Sabri, et al. v. GMAC Mortgage Corporation*, Case No. 03CC00423, California
12 Superior Court, Orange County, (Judge Richard L. Bauer) (represented employees of GMAC
13 Mortgage (dba DiTech.com) in an action asserting violations of California Labor Code and the
14 Unfair Competition Laws (Section 17200 of the Business and Professions Code), and obtained a
15 claims-made settlement of \$5 million for class members in 2006).

16 16. I have also acted as lead or co-lead counsel certified on behalf of a plaintiff class resulting
17 in significant recoveries during the last 20 years, in the following cases:

18 (1) *Daniel Pepper, et al., v. Midland v. Midland Credit Management, Inc.*, Case No. 37-2011-
19 00088752-CU-BT-CTL, San Diego Superior Court, Central Division (Judge Joel R. Wohlfeil)
20 (alleging claims for the illegal recording of telephone calls without consent in violation of the
21 privacy laws of California, Florida, Maryland, Massachusetts, Nevada, New Hampshire,
22 Pennsylvania, and Washington, settlement for the benefit of approximately 1,675,821 Class
23 members in the form of monetary benefits worth over \$24 million and addition privacy protections
24 in 2013).

25 (2) *Maureena Garcia, et al., v. New York & Company, Inc.*, Case No. 37-2010-00060893, San
26 Diego Superior Court, North County (Judge Robert P. Dahlquist) (settlement for violations of
27 California privacy laws for the benefit of approximately 289,000 consumers in the form of cash
28 vouchers and injunctive relief in 2012).

(3) *Rosemary Cohorst, et al. v. BRE Properties, Inc., et al.*, Case N. 10-cv-2666-JM, United
States District Court, Southern District of California (Judge Jeffrey T. Miller) (settlement for
violations of California Penal Code § 630 and Business & Professions Code § 17200, and obtained
a settlement of \$5.5 million in 2012).

(5) *Nancy Fogelstrom, et al. v. Tween Brands, Inc.*, Lead Case No. 37-2008-00060767-CU-BT-
NC, San Diego Superior Court, North County Division (Judge Robert P. Dahlquist) (settlement for
violations of California privacy laws for the benefit of over 3 million consumers in the form of cash
vouchers and injunctive relief that will restrain the future conduct of Defendant in 2010).

(6) *Michael Piscitelli, et al. v. Winn & Sims, APC*, Case No. 37-2007-00056054-CU-BT-NC,
San Diego Superior Court, North County Division (Judge William S. Dato) (settlement for \$838,365
for violations of the TCPA and injunctive relief that will restrain the future conduct of Defendant
in 2009).

(7) *Darren Pedersen, et al., v. Ford Motor Company*, Case No. GIC 821797, Superior Court for
the State of California, San Diego County, (Judge Jeffrey B. Barton)(represented a class of persons
who purchased or leased a new model year 2000 or 2001 Ford F-150 truck equipped with either the
Class III Trailer Towing Group option or the Heavy-Duty Electrical/Cooling Group option and not
equipped with the 7700 lbs Payload Group option from Ford Motor Company directly or through
one of its authorized dealerships), and obtained a settlement of (1) a cash award of up to \$100 per

1 Class Vehicle; or (2) reimbursement for prior out-of-pocket or notice period radiator replacements
2 for nearly 100,000 class members in 2007).

3 (8) *Susanne Malek, et al., v. Blue Cross of California*, Case No. BC271992, California Superior
4 Court, Los Angeles County, (Judge Anthony J. Mohr) (settlement of \$5 million cash payment on
5 behalf of the class of insureds in California governmental health care plans and prohibitive
6 injunctive relief in 2005).

7 (9) *Jean Hargis, et al., v. Metabolife International, Inc.*, Case No. GIC797521, California
8 Superior Court, San Diego County, (Judge John S. Meyer) (settlement of an uncapped monetary
9 recovery on behalf of the class of every purchaser of Metabolife's ephedrine products over 4 year
10 period and prohibitive injunctive relief in 2005).

11 (10) *Gordon v. Reliant Energy Inc. et al.*, Case No. 00-CV-2525 BTM(RBB), U.S. District Court,
12 Southern District of California, (Judge Barry Ted Moskowitz) antitrust case (settlement with one
13 electricity market participant for \$150 million in cash consideration in 2002).

14 (11) *National Metals, Inc. v. Sumitomo Corporation, et al.*, Case No. GIC734001, *Heliotrope*
15 *General, Inc., et al. v. Sumitomo, et al.*, Case Nos. 701679 and 701680, California Superior Court,
16 San Diego County, (Judge J. Michael Bollman) (\$15.75 million settlement in 2002).

17 (12) *Jorge Reinoza v. Syntrax Innovations, Inc. et al.*, Case No. GIC757535, California Superior
18 Court, San Diego County, (Judge Patricia Cowett) (case settled for settlement value of \$1.58 million
19 in 2002).

20 I declare under penalty of perjury of the laws of the State of California that the foregoing is true and
21 correct and this declaration is executed this 2nd day of December, 2021, in Carlsbad, California.

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Patrick N. Keegan

Exhibit A

CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

Plaintiffs Jane Doe, Esther Burch, Elisabeth Schwab, Nicholas J. Smith and Tara F. Smith (“Plaintiffs” or “Class Representatives”), on behalf of themselves and all others similarly situated, and Defendant Siskiyou Hospital, Inc. d/b/a Fairchild Medical Center (“FMC” or “Defendant”) (collectively, the “Parties”), hereby enter into this Class Action Settlement Agreement and Release (“Settlement Agreement” or “Agreement”), subject to Court approval. In consideration of the mutual promises, agreements, and covenants contained herein, the sufficiency and receipt of which are hereby acknowledged, the Parties stipulate and agree as follows:

I. RECITALS

WHEREAS, on January 19, 2021, Plaintiffs Jane Doe, Esther Burch, and Elisabeth Schwab were the first to file a Class Action Complaint (“Complaint”) against FMC concerning this data breach incident in Superior Court of the State of California, County of Siskiyou, Case No. CVCV21-49 (the “Action”). The Complaint alleges that FMC violated the Confidentiality of Medical Information Act, Civil Code § 56, et seq., the Unfair Competition Law, Business & Professions Code § 17200, et seq., and the California Consumer Records Act, Cal. Civ. Code § 1798.82. The Complaint defines the Class as “all patients of FMC who received treatment at one of FMC’s hospital, satellite, or urgent care locations between December 16, 2015 and July 31, 2020, and who received notice from FMC that their information was compromised.” In their Complaint, Plaintiffs are seeking equitable relief, statutory damages, actual damages, and other relief as allowable by law;

WHEREAS, on or about October 29, 2021, Plaintiffs filed an Amended Class Complaint for Damages and Injunctive Relief (“Amended Class Action Complaint”) in the Action asserting claims against FMC for (1) violations of the California Confidentiality of Medical Information Act, Cal. Civ. Code §§ 56, *et seq.* (“CMIA”), and (2) violations of Business & Professions Code §§ 17200, *et seq.* (the “UCL”);

WHEREAS, in the Amended Class Complaint, Plaintiffs seek to certify a class of approximately 39,700 persons, defined as follows:

All persons who were mailed a letter sent on behalf of FMC entitled Notice of Data Breach, dated on or about November 25, 2020” (hereinafter the “Class” or “Class Members”). Officers and directors of FMC who received a Notice of Data Breach are excluded from the Class.

WHEREAS, in the Amended Class Complaint, Plaintiffs seeks the appointment of Potter & Handy, LLP and Keegan & Baker, LLP as Class Counsel to represent the Class Members.

WHEREAS, FMC denies liability, and Plaintiffs and FMC recognize the outcome of the Action and the claims asserted in the Amended Class Action Complaint are uncertain, and that pursuing the Litigation to judgment would entail substantial cost, risk, and delay;

WHEREAS, the Parties have explored and discussed at length the factual and legal issues in the Litigation and have participated in mediation with a well-respected former magistrate judge and mediator, Hon. Jay C. Gandhi (Ret.), concerning the issues raised by Plaintiffs in the

Litigation, and Defendant's defenses to the claims made in the Litigation, and have agreed to a global, final settlement of the Action that renders the need for further litigation unnecessary;

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

WHEREAS, Plaintiffs, by and through Class Counsel (as defined in section II.D, below), have: (a) made a thorough investigation of the facts and circumstances surrounding the allegations asserted in the Litigation; (b) engaged in investigation of the claims asserted in the Litigation, including informal discovery obtained by Plaintiffs in connection with the Action and prior to execution of this Agreement, and (c) evaluated and considered the law applicable to the claims asserted in the Litigation, including the defenses that FMC likely would assert;

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

WHEREAS, FMC does not believe Plaintiffs' claims are meritorious and has denied and continues to deny any and all claims alleged by Plaintiffs, and has denied and continues to deny that it is legally responsible or liable to Plaintiffs or any member of the Class for any of the matters and/or claims asserted in this Litigation, but has concluded that settlement is desirable to avoid the time, expense, and inherent uncertainties of defending protracted litigation and to resolve, finally and completely, all pending and potential claims of Plaintiffs and all members of the Class relating to claims which were or could have been asserted by Plaintiffs and the Class in this Litigation relating to the alleged practices and confidentiality breach at issue;

WHEREAS, the Parties agree that nothing in this Settlement Agreement, including the existence of the Agreement, may be construed as an admission that Defendant has violated any applicable laws or regulations;

WHEREAS, the Parties agree that the proposed settlement is fair, adequate, and reasonable;

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

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

WHEREAS, this Settlement Agreement is made and entered into by and between Plaintiffs, individually and on behalf of the Class, and FMC;

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

II. DEFINITIONS

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

A. “Action” means the case originally captioned as *Jane Doe, et al. v. Siskiyou Hospital, Inc. d/b/a Fairchild Medical Center; and Does 1-100*, Superior Court of the State of California, County of Siskiyou, Case No. CVCV21-49.

B. “FMC” means Siskiyou Hospital, Inc. d/b/a Fairchild Medical Center, the defendant in the Action.

C. “Class” means the class defined as “All persons who were mailed a letter sent on behalf of FMC entitled Notice of Data Breach, dated on or about November 25, 2020.” Officers and directors of Defendant who received a Notice of Data Breach are excluded from the Class.

D. “Class Counsel” means James M. Treglio of Potter Handy LLP and Patrick N. Keegan of Keegan & Baker LLP.

E. “Class Counsel’s Fees and Expenses” means the reasonable attorneys’ fees and expenses of Class Counsel, paid from the Settlement Fund, subject to approval of the Court.

F. “Claim Form” means the form a Final Settlement Class member must submit to receive a Settlement Share under this Agreement, substantially similar to Exhibit 2.

G. “Class Members” and “Settlement Class Members” have the same meaning as “Class,” as set forth in paragraph C above.

H. “Class Notice” means the Court-approved form of notice to the Class substantially similar to Exhibit 1 hereto, mutually prepared and agreed upon by the Parties, informing the Class of, among other things, (i) the preliminary approval of the Settlement; (ii) the scheduling of the Final Approval Hearing; (iii) the settlement benefits available to Class Members; and (iv) their opportunity to participate in, object to, or exclude themselves from, the Settlement.

I. “Class Notice Date” means the date by which the Settlement Administrator (as defined in section II.CC., below) completes the mailing of a copy of the Class Notice by first class mail, postage prepaid, to each Class Member.

J. “Class Representatives” mean Jane Doe, Esther Burch, Elisabeth Schwab, Nicholas J. Smith and Tara F. Smith.

K. “Court” means the Superior Court of the State of California, County of Siskiyou.

L. “Defendant’s Counsel” means Claudia D. McCarron and James F. Monagle of Mullen Coughlin LLC.

M. “Effective Date” means the date by when: (a) if there are no objections to the settlement submitted, or any timely objections have been submitted and then withdrawn before entry of the Final Approval Order, then the date the Court enters the Final Approval Order; or (b) if an objection to the settlement has been submitted by a member of the Final Settlement Class found by the Court to have standing to object, sixty-five (65) calendar days after the Court enters the Final Approval Order; or (c) if any appeal, writ, or other appellate proceeding opposing the Court’s Final Approval Order has been filed by a member of the Final Settlement Class found by the Court to have standing to object, five (5) business days after any appeal, writ, or other appellate proceedings opposing the Final Approval Order have been finally and conclusively dismissed with no right to pursue further remedies or relief.

N. “Final Approval Hearing” means the hearing at which the Court will consider and finally decide whether to enter the Final Approval Order and at which the Court may or may not consider and finally decide approving payment of any Incentive Award and Class Counsel’s Fees and Expenses.

O. “Final Approval Order” means the order of the Court that approves this Settlement Agreement and makes such other final rulings as are contemplated by this Settlement Agreement, which may or may not include approving payment of any Incentive Award and Class Counsel’s Fees and Expenses.

P. “Final Settlement Class” refers to all members of the Settlement Class who do not timely and validly exclude themselves from the Class in compliance with the exclusion procedures set forth in this Agreement.

Q. “Identity Theft Protection Package” means three (3) years of Experian identity theft protection to be automatically provided to all Final Settlement Class members that is comparable to Experian IdentityWorksSM Premium product which is available to the public directly through Experian and includes Social Security Number Trace (For minor Final Settlement Class members, alerts of all names, aliases and addresses that become associated with a minor’s Social Security Number (SSN) on the Experian credit report); Internet Surveillance (Technology searches the web, chat rooms & bulletin boards 24/7 to identify trading or selling of personal information on the Dark Web); Credit Monitoring (For adult Final Settlement Class members, actively monitors Experian files for indicators of fraud); Identity Restoration (Identity Restoration specialists are immediately available to help address credit and non-credit related fraud); Experian IdentityWorks ExtendCARE (Identity Restoration support even after the Experian IdentityWorks membership has expired); and Up to \$1 Million Identity Theft Insurance (Provides coverage for certain costs and unauthorized electronic fund transfers).

R. “Incentive Award” means the amount to be paid to each Class Representative to compensate him or her for the time and effort on behalf of the Class, subject to approval of the Court, and which shall not exceed an amount of five thousand dollars (\$5,000.00) to each of the Class Representatives.

S. “Mailed Notice” means the Class Notice sent by U.S. Mail.

T. “Objection Date” means forty-five (45) days from the Class Notice Date, or a date otherwise ordered by the Court, for members of the Class to object to the Settlement Agreement’s terms or Class Counsel’s Fees and Expenses, and to submit any required statements, proof, or other materials and/or argument.

U. “Parties” means the Plaintiffs and Defendant.

V. “Plaintiffs” means the Class Representatives as defined above.

W. “Preliminary Approval Order” means the order of the Court preliminarily approving this Settlement Agreement.

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

Y. “Released Parties” means FMC, and its parents, subsidiaries, predecessors, successors, divisions, joint ventures, affiliates and related entities and all of their respective past and present directors, officers, employees, partners, principals, agents, attorneys, insurers, reinsurers, assigns, and related or affiliated entities.

Z. “Request for Exclusion” means a timely and valid request by any Class Member for exclusion from the Settlement. To the extent any Class Member delivers both a timely and valid Claim Form to the Settlement Administrator and a timely and valid request for exclusion, the request for exclusion will be deemed to be invalid and the Claim Form will be processed.

AA. “Request for Exclusion Deadline” means forty-five (45) days from the Class Notice Date, or a date otherwise ordered by the Court, for members of the Class to request exclusion from the Settlement.

BB. “Settlement” and “Settlement Agreement” means the agreement by the Parties to resolve this Litigation, the terms of which have been memorialized herein.

CC. “Settlement Administrator” means the ILYM Group, Inc.

DD. “Settlement Fund” means the sum of \$1,150,000, to be paid by FMC and to be used for payment of Class Counsel’s Fees and Expenses, the Incentive Award, purchase of the Identity Theft Protection Package, the Settlement Share, and payment of the costs and expenses of notice and administration of the Settlement by the Settlement Administrator.

EE. “Settlement Share” refers to the pro rata payment as calculated in Section IV.F. to which a member of the Final Settlement Class who timely submits a valid Claim Form becomes entitled pursuant to this Settlement. To be timely, a member of the Final Settlement Class must submit a timely and valid Claim Form within forty-five (45) days from the Class Notice Date, or a date otherwise ordered by the Court.

III. REQUIRED EVENTS

Promptly after execution of this Settlement Agreement by all Parties:

A. Class Counsel and Defendant's Counsel shall take all reasonable and necessary steps to obtain entry of the Preliminary Approval Order and obtain entry of the Final Approval Order. Class Counsel, with FMC's pre-filing review and approval, shall prepare and file all documents in connection with the Motion for Preliminary Approval and the Motion for Final Approval.

B. In the event that the Court fails to issue the Preliminary Approval Order, or fails to issue the Final Approval Order, the Parties agree to use their best efforts, consistent with this Settlement Agreement, to cure any defect(s) identified by the Court. If, despite their best efforts, the Parties cannot cure said defects, the Settlement Agreement is voidable at the election of Plaintiffs or Defendant with each party returning to their respective pre-settlement posture and without prejudice or waiver to any party's pre-settlement position on any legal or factual issue.

C. The Parties acknowledge that prompt approval, consummation, and implementation of the Settlement set forth in this Agreement are essential. The Parties shall cooperate with each other in good faith to carry out the purposes of and effectuate this Settlement Agreement, shall promptly perform their respective obligations hereunder, and shall promptly take any and all actions and execute and deliver any and all additional documents and all other materials and/or information reasonably necessary or appropriate to carry out the terms of this Settlement Agreement and the transactions contemplated hereby.

D. Upon Entry of the Final Approval Order, the Court shall enter Judgment in accordance with the terms of this Settlement Agreement, substantially as provided in the [Proposed] Final Order and Judgment attached to this Agreement as Exhibit 3. The Final Order and Judgment shall enjoin the prosecution of any litigation or class action by Plaintiffs or any Class Member related to or arising out of the Complaint and Action.

IV. SETTLEMENT TERMS

A. **Cash Payment:** FMC agrees to pay the sum of one million, one hundred and fifty thousand dollars (\$1,150,000.00) for the creation of the "Settlement Fund." No later than fourteen (14) calendar days after the Preliminary Approval Date, Defendant will advance to the Settlement Administrator the estimated cost of preparing and mailing the Notice of Class Action Settlement to Class Members. The balance of the amount required by Defendant to be paid to the Settlement Administrator in connection with the Final Approval Order will be due within fourteen (14) calendar days of the Effective Date of Class Settlement. The Settlement Administrator shall establish a Qualified Settlement Fund (QSF), as defined by 26 C.F.R. 1.468B-1, for the deposit of the payment of the balance of the Settlement Fund. Under no circumstances will FMC have any further monetary payment obligation other than the payment of the Settlement Fund. There will be no reversion of the Settlement Fund to FMC. A portion of the Settlement Fund may be allocated for the purchase of the Identity Theft Protection Package.

B. **Identity Theft Protection Package:** All Final Settlement Class members shall automatically receive, free of charge, three (3) years of the Identity Theft Protection Package (as defined in Section II above), from the date of activation. Within thirty (30) days of the Effective

Date, each Final Settlement Class member shall be sent (via U.S. mail) a code to allow them to activate their Identity Theft Protection Package subscription. Members of the Final Settlement Class will have ninety (90) days after the code is sent to activate their Identity Theft Protection Package subscription. The retail price of the Identity Theft Protection Package for three years is approximately \$719.64. Class Counsel estimates, and Defendant agrees not to dispute, that, if fully utilized, this portion of the settlement may amount to approximately \$28,569,708.00 of value to the Class. This value was estimated by multiplying the number of Class Members (39,700) by the retail price to consumers of approximately \$19.99 per month for the identity theft and credit monitoring package (*see* <https://www.experian.com/consumer-products/identity-theft-and-credit-protection.html>).

C. Payments from Settlement Fund: The cost of the Identity Theft Protection Package, settlement administration, including notice and distributions to members of the Final Settlement Class, the costs of administrating the Settlement Fund, and reasonable fees of the Settlement Administrator, Class Counsel’s Fees and Expenses and Class Representatives’ Incentive Awards shall be paid exclusively from the Settlement Fund. There will be no reversion of the Settlement Fund to FMC.

D. Incentive Awards to the Class Representatives: Each Class Representative will request an Incentive Award payment from the Settlement Fund in an amount not to exceed five thousand dollars (\$5,000.00) in recognition of the risks taken by Plaintiffs as the Class Representatives in commencing the Action, both financial and otherwise. Defendant will not oppose Plaintiffs’ requests for Incentive Award payments from the Settlement Fund in these amounts. The incentive awards shall be in addition to the other benefits provided by the Settlement to Final Settlement Class members.

E. Payment of Plaintiffs’ Attorneys’ Fees and Costs: Plaintiffs will request for reasonable attorneys’ fees and litigation costs from the Settlement Fund in an amount not to exceed six hundred and sixty thousand dollars (\$660,000.00), which is less than two and one-third percent (2⅓%) of value of Identity Theft Protection Package subscription (\$28,569,708.00). Defendant will not oppose Plaintiffs’ request for reasonable attorneys’ fees and litigation costs from the Settlement Fund in this amount.

F. Payment of Settlement Share to Class Members: Each member of the Final Settlement Class who submits a timely and valid Claim Form shall be entitled receive to a pro rata cash distribution payment from the Settlement Fund referred to as the “Settlement Share.” The Settlement Administrator shall calculate the Settlement Share by (i) taking the Settlement Fund; (ii) subtracting the amounts to be paid for cost of the Identity Theft Protection Package; and settlement administration, including notice to Class Members and reasonable fees of the Settlement Administrator, Class Counsel’s Fees and Expenses and Class Representatives’ Incentive Awards, as approved by the Court (= Z); and (iii) dividing the sum of such number by the number of Class Members who do not opt out of the Settlement and who submit a timely and valid Claim Form within forty-five (45) days from the Class Notice Date (= X) as represented in the following formula:

$$\text{Settlement Share} = \frac{\text{Settlement Fund} - Z}{X}$$

G. Remedial Measures: Together with the data security measures Defendant had employed prior to the alleged confidentiality breach, which Defendant contends were adequate, reasonable and legally compliant, Defendant has provided or will provide additional remedial measures and Defendant values these measures at approximately One Hundred and Forty Five Thousand Dollars (\$145,000). Defendant will provide a declaration in support of the Settlement, acknowledging and stipulating that Defendant's data security measures include or will include:

- a. Efforts by FMC's IT Department, key IT Staff, and third-party forensic specialists to ensure remediation of servers determined to be affected by the Data Security Incident;
- b. Purchase of additional servers and storage space;
- c. Completion of a Penetration Test to ensure the security of the FMC network;
- d. Purchase and installation of additional endpoint protection software to protect against unauthorized access to the FMC network.

H. Settlement Value: As a result of the forgoing value, the Parties agree that the Settlement Benefits to the Class are valued at approximately \$30 million, as consideration to settle this matter on a class-wide basis.

V. REQUESTS FOR CASH PAYMENTS BY CLASS MEMBERS

A. Members of the Final Settlement Class will be required to submit a Claim Form to receive a pro rata cash distribution payment from the Settlement Fund referred to as the "Settlement Share." Each Final Settlement Class member is limited to the submission of one Claim Form and in no event shall a Final Settlement Class member receive more than one Settlement Share. The Settlement Administrator will issue Settlement Share checks only to Final Settlement Class members who submit timely and valid Claim Forms. To be entitled to receive a Settlement Share under this Agreement, Class Members must properly complete a Claim Form and timely deliver it to the Settlement Administrator within forty-five (45) days from the Class Notice Date. The delivery date for submission of a Claim Form is deemed to be the date (a) the form is deposited in the U.S. Mail as evidenced by the postmark, in the case of submission by U.S. Mail, or (b) in the case of submission electronically through the settlement website, the date the Settlement Administrator receives the form, as evidenced by the transmission receipt. Any Class Member who fails to submit a valid and timely Claim Form will not receive a Settlement Share under this Agreement but will still be able to obtain other benefits provided by the Settlement.

B. The Settlement Administrator shall provide Class Counsel and Defendant's Counsel with a weekly report informing them of any and all Claim Forms received by the Settlement Administrator during each week following the Class Notice Date. The Settlement Administrator must file a Declaration identifying the number of Claim Forms received no later than seven (7) days after the deadline for submission of Claim Forms.

C. Amount of Settlement Share Checks sent to Class Members: The amount of each Settlement Share check sent to members of the Final Settlement Class who submit a timely and valid Claim Form will be determined by the Settlement Administrator by making a calculation of a pro rata cash distribution payment from the Settlement Fund to all members of the Final

Settlement Class who submit a timely and valid Claim Form pursuant to Section IV.F and V.A. If the Court approves the amounts to be requested for the cost of the Identity Theft Protection Package, and settlement administration, including notice to Class Members and reasonable fees of the Settlement Administrator, Class Counsel's Fees and Expenses and Class Representatives' Incentive Awards, a Settlement Share check is estimated to be fifty dollars (\$50.00) if the total number of timely and valid Claim Forms received equals 4,600.

D. Disbursement of Settlement Share Checks: Within thirty (30) days of Effective Date, the Settlement Administrator will disburse Settlement Share checks to each Final Settlement Class member who submits a timely and valid Claim Form pursuant to Section IV.F and V.A. For any Settlement Share check 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, including skip tracing, and resend any returned Settlement Share check within thirty (30) days after the Settlement Share check is returned to the Settlement Administrator as undeliverable.

E. Failure to Cash Settlement Share Checks: Absent a demonstration of reasonable circumstances for excuse, any Settlement Share check not cashed within ninety (90) days of issuance (based on the date of the check) will be deemed expired. Any member of the Final Settlement Class who does not cash their Settlement Share check within the aforementioned time period may petition the Settlement Administrator within thirty (30) days of the expiration of their uncashed check to reissue their Settlement Share check, and the Settlement Administrator will issue a new check. Members of the Final Settlement Class are entitled to only one petition on this basis, and any Settlement Share check reissued for such reasonable circumstances will expire within thirty (30) days of issuance (based on the date of the check). Final Settlement Class members who do not timely cash their Settlement Share checks and fail to petition for a reissuance of the uncashed Settlement Share 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 Final Settlement Class member be permitted to cash a check once the value of uncashed checks has been paid to a *cy pres* organization (pursuant to Section V.F.).

F. Payment of Uncashed Checks to a Cy Pres Organization (if necessary): The total amount of uncashed Settlement Share checks will be paid to a charitable organization to be agreed upon by FMC and Class Counsel, and approved by the Court, for the provision of services to victims of identity theft and fraud-related crimes or, alternatively, to a charitable organization that conducts services the Court deems appropriate given the facts underlying the Litigation.

VI. IDENTITY THEFT PROTECTION PACKAGE ACTIVATION

A. Disbursement of Activation Codes for Identity Theft Protection Package: Within fourteen (14) days following entry of the Preliminary Approval Order, Defendant will provide the Settlement Administrator a list of all Class Members in Excel format that also includes each Class Member's Date of Birth information which is necessary for the processing of Identity Theft Protection Package benefits. FMC agrees that the Settlement Administrator can disclose the total number of Class Members who will be eighteen (18) years old through the end of the activation period with Class Counsel. No later than thirty (30) days after the Effective Date, the

Settlement Administrator will send to Experian (i) payment to Experian for Identity Theft Protection Package for all Final Settlement Class members and (ii) a list of Final Settlement Class members, in order to allow Experian to send the Settlement Administrator activation codes for each member of the Final Settlement Class to activate their Identity Theft Protection Package subscription.

B. Activation of Identity Theft Protection Package Subscription: Final Settlement Class members will have ninety (90) days after the code is sent to them by the Settlement Administrator to activate their Identity Theft Protection Package subscription. Any member of the Final Settlement Class who fails to activate their Identity Theft Protection Package subscription by the activation deadline will be considered as having waived any right to activate their Identity Theft Protection Package subscription, but will still be able to obtain other benefits provided by the Settlement.

VII. SETTLEMENT ADMINISTRATION

A. Engagement of Settlement Administrator. Promptly upon entry of the Preliminary Approval Order (if not sooner), the Parties shall engage ILYM Group, Inc. as the Settlement Administrator, which shall be paid reasonable fees, estimated not to exceed \$100,000.00, and who has agreed not to seek a payment in excess of \$100,000.00, exclusively from the Settlement Fund.

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

1. Preparing, printing, and disseminating the Class Notice to Class Members.
2. Not later than twenty (20) days after the Court's entry of a Preliminary Approval Order, sending by First Class Mail the Class Notice to all known Class Members. The Parties agree to use their best efforts and to work cooperatively to obtain the best practicable Class Member contact information prior to the date of the first Mailed Notice.
3. From the date of the first Mailed Notice, and thereafter for six (6) months after the Effective Date, maintaining (i) the settlement website, www.FMCprivacyclassaction.com, that will include information about how to contact Class Counsel and how to submit a Claim Form, a copy of the Class Notice, and a copy of the Settlement Agreement; and (ii) an 800 number with recorded answers to commonly asked settlement questions and reference to the settlement website.
4. Keeping track of Requests for Exclusion, including maintaining the original mailing envelope in which each request was mailed.
5. Keeping track of Claim Forms, including maintaining the original mailing envelope in which each form was mailed.

6. Keeping track of objections, including maintaining the original mailing envelope in which each objection was mailed.
7. Keeping track of all other communications from Class Members, including maintaining the original mailing envelope in which any communication was mailed.
8. Maintaining adequate records of its activities, including the dates of each mailing of Class Notices, returned mail and other communications and attempted written or electronic communications with Class Members.
9. Promptly furnishing to counsel for the Parties (i) copies of any Requests for Exclusion from Class Members; (ii) copies of objections by Class Members; and (iii) all other written or electronic communications received from Class Members.
10. Determining whether Requests for Exclusion comply with the terms of this Agreement and are timely and valid and effective to exclude the submitting Class Member from the Class.
11. Determining whether Claim Forms comply with the terms of this Agreement and are timely and valid.
12. Promptly preparing and distributing any revocation of a Request for Exclusion to the submitting Class Member. Revocations shall set forth the reasons for revocation, including the reason(s) the Request for Exclusion fails to comply with the terms of this Agreement.
13. Promptly preparing and distributing any revocation of a Claim Form to the submitting Class Member. Revocations shall set forth the reasons for revocation, including the reason(s) the Claim Form fails to comply with the terms of this Agreement.
14. Delivering to the Parties' counsel in a reasonably timely manner, but in no event later than ten (10) court days before the Final Approval Hearing, a written report concerning all Requests for Exclusion, all Claim Forms, all revocations of Requests for Exclusion and Claim Forms, and all objections.
15. Establishing a Qualified Settlement Fund (QSF), as defined by 26 C.F.R. 1.468B-1, for the deposit of the payment of the Settlement Fund, ensuring that all taxes associated with the administration of the Settlement Fund are timely paid to the appropriate tax authorities and all tax filings are timely filed, which shall be paid from the Settlement Fund.
16. Determining the Settlement Share of each member of the Final Settlement Class in accordance with this Agreement.
17. Preparing a list of Final Settlement Class members.

18. Not later than thirty (30) days after the Effective Date, distributing the Settlement Share of each Final Settlement Class member who submitted a timely and valid Claim Form by sending a check by First Class Mail to each such member in the amount of the Settlement Share.
19. Not later than thirty (30) days after the Effective Date, sending payment to Experian for Identity Theft Protection Package for all members of the Final Settlement Class.
20. Not later than thirty (30) days after the Effective Date, distributing the activation codes to each Final Settlement Class member by First Class Mail.
21. Not later than thirty (30) days after the Effective Date, distributing any Incentive Award approved by the Court by sending a check by First Class Mail in the amount of the award approved by the Court, to each Class Representative.
22. Not later than thirty (30) days after the Effective Date, preparing and distributing, in accordance with this Agreement and Final Approval Order, or Final Approval Order on Fees, Class Counsel's reasonable attorneys' fees and costs.
23. Confirming in writing its completion of the administration of the Settlement.

C. **Costs of Settlement Administration.** All expenses incurred in administering this Settlement Agreement, including, without limitation, the cost of the Class Notice, settlement website, 800 number, the cost of distributing and administering the benefits of the Settlement Agreement, and the Settlement Administrator's reasonable fees, up to \$100,000.00, shall be paid to the Settlement Administrator from the Settlement Fund, subject to approval of the Court.

VIII. REQUESTS FOR EXCLUSION BY CLASS MEMBERS

A. Any Class Member may make a Request for Exclusion by mailing such request in writing to the Settlement Administrator at the address set forth in the Class Notice. Any Request for Exclusion must be postmarked not later than forty-five (45) days after the date of Mailed Notice or such other date specified in the Court's Preliminary Approval Order. The Request for Exclusion shall (i) state the Class Member's full name and current address, and be personally signed, and (ii) specifically state his or her desire to be excluded from the Settlement and from the Class. Failure to comply with these requirements and to timely submit the Request for Exclusion will result in the Class Member being bound by the terms of the Settlement.

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

C. The Settlement Administrator shall provide Class Counsel and Defendant's counsel with a weekly report informing them of any Requests for Exclusion received by to the Settlement

Administrator during each week following the Class Notice Date. The Settlement Administrator must file a Declaration attaching all Requests for Exclusion received with the Court and serve copies on Defendant's counsel and Class Counsel no later than seven (7) days after the deadline for submission of the Requests for Exclusion.

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

IX. OBJECTIONS TO SETTLEMENT BY CLASS MEMBERS

A. Any Class Member may make an objection to the proposed Settlement by mailing a letter to the Settlement Administrator at the address set forth in the Class Notice. Any objection to be considered valid must be mailed and postmarked no later than the Objection Date, i.e. forty-five (45) days from the date of Mailed Notice or such date as otherwise ordered by the Court. Any Class Member who has submitted a Request for Exclusion may not submit any objections or speak at the Final Approval Hearing.

B. To state a valid objection to the Settlement, an objecting Class Member must mail a letter to a designate member of Class Counsel, Defendant's Counsel, and the Settlement Administrator setting forth all of the following information in writing: (i) the objector's full name, current address, current telephone number, and be personally signed; (ii) documentation sufficient to establish membership in the Class, such as a copy of the Class Notice he or she received; (iii) a statement of the position(s) the objector wishes to assert, including the factual and legal grounds for the position; (iv) provide copies of any other documents that the objector wishes to submit in support of his/her position; (v) whether the objecting Class Member intends to appear at the Final Approval Hearing; and (vi) whether the objecting Class Member is represented by counsel and if so, the name, address, and telephone number of his/her counsel.

C. Subject to approval of the Court, any objecting Class Member may appear, in person or by counsel, at the Final Approval Hearing held by the Court, but must file a notice of intention to appear at the Final Approval Hearing ("Notice of Intention to Appear") at least fifteen days prior to the Final Approval Hearing or such other date set by the Court. By this provision, the Parties are not waiving and are expressly preserving their right to contest any appearance by an objector on any grounds, or from asserting any and all other potential defenses and privileges to any such appearance. The Notice of Intention to Appear should include copies of any papers, exhibits, or other evidence that the objecting Class Member (or his/her counsel) will present to the Court in connection with the Final Approval Hearing.

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

E. Class Counsel will defend the Court's Final Approval Order, Final Approval Order on Fees, Judgment, and any related orders, in the event of an appeal.

X. RELEASE OF CLAIMS

A. Plaintiffs and Class Members who fail to timely make a Request for Exclusion from the Settlement release Defendant and Released Parties from any and all claims or causes of action alleged in the Action or which could have been alleged based on the legal theories, legal authorities, or facts asserted regardless of whether such claims arise under federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law, including all claims under the California Confidentiality of Medical Information Act, Cal. Civ. Code §§ 56, *et seq.*; Business & Professions Code §§ 17200, *et seq.*; and the California Consumer Records Act, Cal. Civ. Code § 1798.82, as well as any and all claims, causes of action, damages, penalties, attorneys' fees, costs, and any other form of relief or remedy in law, equity, of whatever kind or nature and for any relief whatsoever, including monetary, injunctive, or declaratory relief, whether direct or indirect, whether under federal law or the law of any state, local law and/or regulation, which the Plaintiffs or any Class Member has against Defendant or any of the Released Parties for any acts that were pled or could have been pled in the Action based on the facts, subject matter, or the factual or legal allegations in the Consolidated Amended Class Action Complaint ("Released Claims"). For avoidance of doubt, the Action and the Released Claims do not include any general negligence or professional medical negligence claims of any Class Members. The scope of the Released Claims is limited to claims in connection with the Notification Letter that were pled or could have been pled in the Action based on the facts, subject matter, or the factual or legal allegations in the Consolidated Amended Class Action Complaint.

B. Plaintiffs and Class Members expressly waive and relinquish, to the fullest extent permitted by law, the provisions, rights, and benefits of section 1542 of the California Civil Code with respect to the Released Claims. Section 1542 of the California Civil Code provides: "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.."

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

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

XI. REPRESENTATIONS, WARRANTIES, AND COVENANTS

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

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

C. **Final Settlement Class Member Signatures.** It is agreed that it is impossible or impractical to have each Final Settlement Class Member execute this Agreement. The Notices will advise all potential Class Members of the binding nature of the Releases, Settlement Agreement, the Preliminary Approval Order, and the Final Approval Order; and each of those documents shall have the same force and effect as if each Final Settlement Class Member executed this Settlement Agreement.

XII. MISCELLANEOUS PROVISIONS

A. **Entire Agreement.** This Agreement and associated Exhibits constitute the entire agreement among the Parties and supersede any prior agreements among the Parties with respect to the subject matter hereof. All of the Exhibits referred to herein shall be incorporated by reference as though fully set forth herein. No representations, warranties, or inducements have been made to or relied upon by any Party concerning this Agreement or its Exhibits, other than the representations, warranties, and covenants expressly set forth in such documents.

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

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

D. Class Counsel recognizes that the Settlement Class includes current and former patients/customers of FMC and may include current and former FMC employees. Class Counsel consents to FMC communicating with and/or responding to inquiries from any Settlement Class Member, including in connection with the subject matter of this Settlement Agreement, provided the communication is not to discourage participation in the Settlement.

E. **Jurisdiction.** The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall retain jurisdiction with respect to the administration, consummation, and enforcement of the Agreement and shall retain jurisdiction for the purpose of enforcing all terms of the Agreement. The Court shall also retain jurisdiction over all questions and/or disputes related to the Class Notice, Settlement Fund, and the Settlement Administrator. As part of its agreement to render services in connection with this Settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose.

F. **Governing Law.** This Agreement is intended to and shall be governed by the laws of the State of California, without regard to its choice of law principles.

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

H. Capitalized words, terms and phrases are used as defined in Section II, above.

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

J. This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Electronic copies of this Settlement Agreement and the signatures hereto may be used with the same force and effect as an original.

K. Except as otherwise provided in this Settlement Agreement, each party to this Settlement Agreement shall bear his, her, or its own costs of the Litigation.

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

M. The administration and consummation of the Settlement as embodied in this Settlement Agreement shall be under the authority of the Court. The Court shall retain jurisdiction to protect, preserve, and implement the Settlement Agreement, including, but not limited to, the release. The Court expressly retains jurisdiction to enter such further orders as may be necessary or appropriate in administering and implementing the terms and provisions of the Settlement Agreement, including, but not limited to, orders enjoining Class Members from prosecuting claims that are released pursuant to the Settlement Agreement as provided herein, and allowing for discovery related to objectors, if any.

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

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

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

Q. All time periods set forth herein shall be computed in calendar days unless otherwise expressly provided. In computing any period of time prescribed or allowed by this agreement or by order of the Court, the day of the act, or default, from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period shall run until the end of the next day that is not one of the aforementioned days. Each of the Parties reserves the right, subject to the Court's approval, to seek any reasonable extensions of time that might be necessary to carry out any of the provisions of this agreement, and to modify or supplement any notice contemplated hereunder.

R. Any failure by any of the Parties to insist upon the strict performance by any of the other Parties of any of the provisions of this agreement shall not be deemed a waiver of any

provision of this agreement, and such Party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions herein.

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

For Class Counsel:



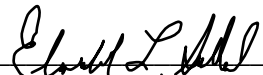
James M. Treglio
jim@potterhandy.com
Potter Handy LLP
8033 Linda Vista Rd. Ste. 200
San Diego, California 92111

Patrick N. Keegan
pkeegan@keeganbaker.com
Keegan & Baker, LLP
2292 Faraday Avenue, Suite 100
Carlsbad, CA 92008

For FMC:

Claudia D. McCarron
James F. Monagle
cmccarron@mullen.law
jmonagle@mullen.law
Mullen Coughlin LLC
426 W. Lancaster Avenue, Suite 200
Devon, PA 19333

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

Dated: <u>11/02/2021</u>	 _____ Jane Doe Plaintiff
Dated: <u>11/02/2021</u>	 _____ Esther Burch Plaintiff
Dated: <u>11/02/2021</u>	 _____ Elisabeth Schwab Plaintiff
Dated: _____	_____ Nicholas J. Smith Plaintiff
Dated: _____	_____ Tara F. Smith Plaintiff

provision of this agreement, and such Party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions herein.

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For Class Counsel:

James M. Treglio
jim@potterhandy.com
Potter Handy LLP
8033 Linda Vista Rd. Ste. 200
San Diego, California 92111

Patrick N. Keegan
pkeegan@keeganbaker.com
Keegan & Baker, LLP
2292 Faraday Avenue, Suite 100
Carlsbad, CA 92008

For FMC:

Claudia D. McCarron
James F. Monagle
cmccarron@mullen.law
jmonagle@mullen.law
Mullen Coughlin LLC
426 W. Lancaster Avenue, Suite 200
Devon, PA 19333

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

Dated: _____

Jane Doe
Plaintiff

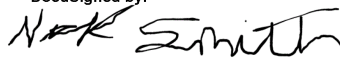
Dated: _____

Esther Burch
Plaintiff

Dated: _____

Elisabeth Schwab
Plaintiff

Dated: 11/4/2021

DocuSigned by:

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Nicholas J. Smith
Plaintiff

Dated: _____

Tara F. Smith
Plaintiff

provision of this agreement, and such Party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions herein.

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

For Class Counsel:

James M. Treglio
jim@potterhandy.com
Potter Handy LLP
8033 Linda Vista Rd. Ste. 200
San Diego, California 92111

Patrick N. Keegan
pkeegan@keeganbaker.com
Keegan & Baker, LLP
2292 Faraday Avenue, Suite 100
Carlsbad, CA 92008

For FMC:

Claudia D. McCarron
James F. Monagle
cmccarron@mullen.law
jmonagle@mullen.law
Mullen Coughlin LLC
426 W. Lancaster Avenue, Suite 200
Devon, PA 19333

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

Dated: _____

Jane Doe
Plaintiff

Dated: _____

Esther Burch
Plaintiff

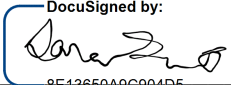
Dated: _____

Elisabeth Schwab
Plaintiff

Dated: _____

Nicholas J. Smith
Plaintiff

Dated: 11/10/2021 _____

DocuSigned by:

8E13650A9C904D5...
Tara F. Smith
Plaintiff

Dated: _____

James M. Treglio, Esq.
Potter Handy LLP
Attorneys for Plaintiffs

Dated: 11/5/2021

DocuSigned by:
Patrick Keegan
53D893559F5348F...

Patrick N. Keegan, Esq.
Keegan & Baker, LLP
Attorneys for Plaintiffs

Dated: _____

Print Name: _____
As the Duly Authorized Corporate Representative of
Defendant Siskiyou Hospital, Inc. d/b/a Fairchild
Medical Center

Dated: _____

James F. Monagle, Esq.
Mullen Coughlin, LLC
Attorneys for Defendant
Siskiyou Hospital, Inc. d/b/a Fairchild Medical
Center

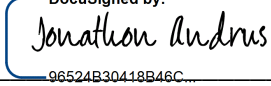
Dated: _____

James M. Treglio, Esq.
Potter Handy LLP
Attorneys for Plaintiffs

Dated: _____

Patrick N. Keegan, Esq.
Keegan & Baker, LLP
Attorneys for Plaintiffs

Dated: 11/2/2021 _____

DocuSigned by:

96524B30418B46C...

Jonathon Andrus, MHA, MBA
Chief Executive Officer
As the Duly Authorized Corporate Representative of
Defendant Siskiyou Hospital, Inc. d/b/a Fairchild
Medical Center

Dated: _____

James F. Monagle, Esq.
Mullen Coughlin, LLC
Attorneys for Defendant
**Siskiyou Hospital, Inc. d/b/a Fairchild Medical
Center**

Exhibit 1

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF SISKIYOU
Jane Doe, et al. v. Siskiyou Hospital, Inc. d/b/a Fairchild Medical Center, Case No. CVCV21-49
NOTICE OF CLASS ACTION SETTLEMENT

The Court has authorized this Notice. This is not a solicitation from a lawyer.

Your legal rights are affected whether or not you act. Please read this notice carefully.

- A settlement has been proposed to resolve a class action lawsuit against Fairchild Medical Center (“FMC”), which alleged that the personal and medical information of more than 39,000 patients contained on an FMC computer server was subject to unauthorized access or viewing, and which was reported on or about November 25, 2020 (the “Data Security Incident”).
- The lawsuit alleges that Fairchild Medical Center is legally responsible for the Data Security Incident and asserts claims for violation of the California Confidential Medical Information Act, as well as claims for injunctive relief. Fairchild Medical Center denies these allegations and claims it did not do anything wrong.
- All Settlement Class Members will receive access to three years of identity theft protection. In addition, Fairchild Medical Center agreed to certain non-monetary relief related to data security.
- A Settlement Class Member who timely submits a valid claim form will also receive a pro-rata portion of the funds remaining in the Settlement Fund after payment of attorneys’ fees, costs, expenses, and other amounts approved or ordered by the Court.

SUBMIT A CLAIM FORM BY [insert deadline date]	If eligible, you will receive a cash payment. If you do not submit a claim form, you will receive access to three years of identity theft protection.
EXCLUDE YOURSELF BY [insert deadline date]	If you ask to be excluded, you will not receive three years of identity theft protection or a cash payment, but you may be able to file your own lawsuit against FMC for the same claims. This is the only option that leaves you the right to file your own lawsuit against FMC for the claims that are being resolved by the Settlement. In order to be effective, a request to be excluded from the Settlement must include all information required by the Settlement.
OBJECT BY [insert deadline date]	You can remain in the Settlement Class and file an objection telling the Court why you do not like the Settlement. If your objections are overruled, you will be bound by the Settlement.
DO NOTHING	If you do nothing, you will receive access to three years of identity theft protection, but you will not receive any cash payment. If you do nothing, you will also remain in the Settlement Class and forfeit your right to sue or bring any claim against Fairchild Medical Center related to the Data Breach.

- 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. Identity theft protection and cash payments will be provided only if the Court grants final approval of the Settlement. Please be patient.

1. Why Did I Receive This Notice?

You received this Notice because Fairchild Medical Center's records show that you were mailed a Notice Letter sent on behalf of FMC., dated November 25, 2020 (the "Notification Letter"), stating that your sensitive and private personal and medical information was on a picture archiving and communications system (PACS) server that may have been accessed by unauthorized individuals from December 16, 2015 to July 31, 2020, and on _____, 2022, the Court granted preliminary approval of the Settlement, approving this Notice.

You are being provided this Notice because you have a right to know about a proposed settlement this class action, and about your rights and options, before the Court decides whether to grant final approval of 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 A Class Action?

A class action is a lawsuit where one or more persons sue not only for themselves, but also for other people who have similar claims. These other people are known as the "Class" or "Class Members." In a class action, one court resolves the issues for all Class Members, except for those who exclude themselves or "opt out" from the Class. The Court has not made any ruling on the merits of this case. The attorneys for the Class Representatives and Fairchild Medical Center have agreed to settle the lawsuit, subject to the approval of the Court.

3. What Is This Class Action About?

The Class Representatives filed a complaint against Fairchild Medical Center. The complaint alleges that from December 16, 2015 to July 31, 2020, unauthorized individuals could have accessed the PACS server, which contained sensitive personal and medical information about Fairchild Medical Center patients. Based upon Class Representatives' investigations, Fairchild Medical Center's investigations, and discovery conducted during this litigation, the Class Representatives contend that Fairchild Medical Center was alerted to the vulnerability of its network servers, only to recognize that its patient information was no longer properly kept private. It was determined that due to a misconfiguration of the PACS server, the private medical information of approximately 39,700 putative Class members was subject to unauthorized access or viewing. Class Representatives further allege that FMC failed to fulfill its legal duty to adequately secure and safeguard the medical information of the Class Representatives and Class Members and that Fairchild Medical Center breached promises made to the Class Representatives and Class Members concerning the security of their medical information.

In their complaint, Class Representatives assert claims for violations of the California Confidential Medical Information Act, Civil Code §§ 56 *et seq.*, the Unfair Competition Law, Business & Professions Code § 17200, *et seq.*, and the California Consumer Records Act, Cal. Civ. Code § 1798.82, as well as claims for injunctive relief.

Fairchild Medical Center denies the allegations asserted by the Class Representatives in the Action and contends that Fairchild Medical Center was and is in compliance with applicable state law. The Court has not made any ruling on the merits of this case. The attorneys for the Class Representatives and Fairchild Medical Center have agreed to settle the Action, subject to

the approval of the Court.

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

If you received this Notice by mail, FMC's records indicate that you are included in the Settlement Class. More specifically, the Settlement Class includes all persons who were previously mailed the November 25, 2020 "Notification Letter. If you are not sure whether you are included, call [INSERT Settlement Administrator 800 number].

5. *Why Is There A Settlement?*

The Court did not decide in favor of Class Representatives or Fairchild Medical Center. Instead, both sides agreed to settle this case to avoid the additional cost and risk of trial and appellate proceedings. This way, they avoid the cost and burden of a trial and the people affected can get benefits. The Class Representatives and their attorneys think the Settlement is in the best interests of the Class Members. The Court still has to decide whether to grant final approval of the Settlement. Identity theft protection and cash payments will be provided only if the Court grants final approval of the Settlement.

6. *What Does the Settlement Provide?*

If the Court grants final approval, the Fairchild Medical Center will provide the following Settlement benefits to the Class Members, including:

- **Identity Theft Protection:** Three (3) years of Identity Theft Protection Package, including identity theft insurance of up to \$1 million, which is valued by Class Counsel at \$28,569,708.
- **Cash Payment:** For those who submit a valid and timely claim form, a pro-rata cash distribution of the funds remaining in the Settlement Fund after payment of attorneys' fees, costs, expenses, and other amounts approved or ordered by the Court.
- **Remedial Measures:** Additional data security measures to be taken by Fairchild Medical Center, including cybersecurity infrastructure, security trainings, and privacy and security risk assessments, valued by Fairchild Medical Center at approximately \$145,000, implemented by Fairchild Medical Center as a result of this action.

In summary, the Settlement is estimated to confer a **total settlement value of approximately \$30 million** to the Class Members as a whole.

7. *How Can I Receive the Identity Theft Protection Package and What Does the Identity Theft Protection Package Provide?*

All eligible Settlement Class Members who do not exclude themselves shall automatically receive free of charge three (3) years of Identity Theft Protection Package from Experian. The retail price for an individual of the Identity Theft Protection Package for three years is approximately \$719.64. Class Counsel estimates and Fairchild Medical Center does not dispute that, if fully utilized, the value of this benefit to the Class is estimated to be \$28,569,708. If the Settlement receives final approval by the Court, at the expiration of any applicable appeals periods, all eligible Settlement Class Members who do not exclude themselves from the Settlement will be sent (via U.S. mail or via email if requested by you) a code to allow them to activate their Identity

Theft Protection Package subscription.

If you are an eligible Settlement Class Member and you do not exclude yourself from the Settlement, you do not need to do anything to receive the Identity Theft Protection Package subscription benefit. The Identity Theft Protection Package to be automatically provided to all Final Settlement Class members after final approval and expiration of all appeals periods is comparable to Experian IdentityWorksSM Premium product which is available to the public directly through Experian and includes Social Security Number Trace (For minor Final Settlement Class members, alerts of all names, aliases and addresses that become associated with a minor's Social Security Number (SSN) on the Experian credit report); Internet Surveillance (Technology searches the web, chat rooms & bulletin boards 24/7 to identify trading or selling of personal information on the Dark Web); Credit Monitoring (For adult Final Settlement Class members, actively monitors Experian files for indicators of fraud); Identity Restoration (Identity Restoration specialists are immediately available to help address credit and non-credit related fraud); Experian IdentityWorks ExtendCARE (Identity Restoration support even after the Experian IdentityWorks membership has expired); and Up to \$1 Million Identity Theft Insurance (Provides coverage for certain costs and unauthorized electronic fund transfers).

8. *How Can I Receive a Pro-rata Cash Payment from the Settlement Fund and How Will Pro-rata Cash Payments Be Calculated?*

If you are an eligible Settlement Class Member and you do not exclude yourself from the Settlement, and you wish to receive a pro-rata cash payment from the Settlement Fund, you must submit a valid claim by [INSERT DATE (45 days from the Class Notice Date)]. To receive a pro-rata cash payment, you must complete and mail a Claim Form postmarked no later than [INSERT DATE (45 days from the Class Notice Date)] to Settlement Administrator, [ADDRESS]. A Claim Form may also be electronically completed and submitted online at www.[INSERT Web address].com by [INSERT DATE (45 days from the Class Notice Date)]. Claim Forms postmarked or electronically submitted after [INSERT DATE (45 days from the Class Notice Date)] will not be paid.

The Settlement Administrator will calculate the pro-rata cash payment or "Settlement Share" by (i) taking the Settlement Fund of \$1,150,000; (ii) subtracting the amounts to be paid for cost of the Identity Theft Protection Package; and settlement administration, including notice to Class Members and reasonable fees of the Settlement Administrator, Class Counsels' Fees and Expenses and Class Representatives' Incentive Awards, as approved by the Court (= Z); and (iii) dividing the sum of such number by the number of Settlement Class Members who do not opt out of the Settlement and who submit a timely and valid Claim Form by [INSERT DATE (45 days from the Class Notice Date)] (= X) as represented in the following formula:

$$\text{Settlement Share} = \frac{\text{Settlement Fund} - Z}{X}$$

Based on past claims rates in similar cases, if the Court approves the amounts to be requested for the cost of the Identity Theft Protection Package, and settlement administration, including notice to Class Members and reasonable fees of the Settlement Administrator, Class Counsels' Fees and Expenses and Class Representatives' Incentive Awards, a Settlement Share check is estimated to be fifty dollars (\$50.00), although the actual Settlement Share check may be higher or lower depending on the final number of timely and valid Claim Forms received.

9. *When and How Will I Receive a Payment from the Settlement?*

If the Settlement is granted final approval by the Court and if you have timely submitted a valid claim by the [INSERT DATE (45 days from the Class Notice Date)] deadline, you will be sent a Settlement Share check via U.S. mail. If the Court approves the settlement, payments are anticipated to be sent out approximately three (3) months after the final approval hearing on [DATE] or in [INSERT MONTH AND YEAR] or after the expiration of all appeals deadlines. You may visit [www.\[INSERT Settlement Website address\].com](http://www.[INSERT Settlement Website address].com) or otherwise contact the Settlement Administrator at any time for an update on the status of the Action or the Settlement.

10. *What Are the Additional Remedial Measures Being Implemented by Fairchild Medical Center?*

As a result of this Action, Fairchild Medical Center has and will be implementing various security-related remedial measures. Together with the data security measures FMC had employed prior to the alleged confidentiality breach, which FMC contends were adequate, reasonable and legally compliant, FMC has provided or will provide the following additional remedial measures:

- Efforts by FMC's IT Department, key IT Staff, and third-party forensic specialists to ensure remediation of servers determined to be affected by the Data Security Incident;
- Purchase of additional servers and storage space;
- Completion of a Penetration Test to ensure the security of the FMC network; and
- Purchase and installation of additional endpoint protection software to protect against unauthorized access to the FMC network.

11. *What Am I Giving Up As Part Of The Settlement By Staying In The Class?*

If the Settlement is granted final approval by the Court, members of the Settlement Class will be releasing Fairchild Medical Center and Released Parties, as defined in Paragraph Y of Section II and as further described in Section X of the Settlement Agreement, from any and all claims or causes of action alleged in the Action or which could have been alleged based on the legal theories, legal authorities, or facts asserted regardless of whether such claims arise under federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law, including all claims under the California Confidentiality of Medical Information Act, Cal. Civ. Code §§ 56, *et seq.*, Business & Professions Code §§ 17200, *et seq.*, and the California Consumer Records Act, Cal. Civ. Code § 1798.82, as well as any and all claims, causes of action, damages, penalties, attorneys' fees, costs, and any other form of relief or remedy in law, equity, of whatever kind or nature and for any relief whatsoever, including monetary, injunctive, or declaratory relief, whether direct or indirect, whether under federal law or the law of any state, local law and/or regulation, which the Plaintiffs or any Class Member has against Defendant or any of the Released Parties for any acts that were pled or could have been pled in the Action based on the facts, subject matter, or the factual or legal allegations in the Consolidated Amended Class Action Complaint ("Released Claims"). For avoidance of doubt, the Action and the Released Claims do not include any general negligence or professional medical negligence claims of any Class Members. This means that if you fail to exclude yourself from (i.e., "opt out" of) the Settlement, you will no longer be able to file a lawsuit against Fairchild Medical Center or the Released Parties for the same

claims brought in this case or that could have been brought in the lawsuit. The Settlement Agreement is available at [www.\[INSERT Settlement Website address\].com](http://www.[INSERT Settlement Website address].com).

12. *How Do I Exclude Myself From The Class?*

You have the right to exclude yourself from (i.e., “opt out” of) the Settlement. If you exclude yourself, you will be giving up the right to receive an Identity Theft Protection Package subscription, the right to seek a pro-rata cash payment and the right to object, but you will not be releasing the claims that are released in the Settlement.

To exclude yourself from the Settlement, you must mail your request to the Settlement Administrator at the address listed below. To be valid, a request for exclusion must include your name, address, and signature and must specifically state that you wish to be excluded from the Settlement in the case entitled *Jane Doe, et al. v. Siskiyou Hospital, Inc. d/b/a Fairchild Medical Center*, Case No. CVCV21-49. To be timely, you must mail a request for exclusion postmarked no later than [INSERT DATE (45 days from the Class Notice Date)] to *Jane Doe, et al. v. Siskiyou Hospital, Inc. d/b/a Fairchild Medical Center*, Case No. CVCV21-49, c/o ILYM Group, P.O. Box [INSERT Number], [INSERT Settlement Administrator Address].

If you submit a request for exclusion, you will not be bound by any judgment in the Action and you will be able to file your own lawsuit against FMC at your own expense. **DO NOT SUBMIT BOTH A CLAIM FORM AND A REQUEST FOR EXCLUSION. If you submit both a Claim Form and a Request for Exclusion, your Request for Exclusion will be disregarded and your Claim Form will be processed.**

13. *If I Do Not Exclude Myself From the Class, Can I File A Lawsuit Against Defendant For The Same Thing Later?*

No. If you do not exclude yourself, you give up any right to bring your own individual lawsuit against Siskiyou Hospital, Inc. d/b/a Fairchild Medical Center with regard to the claims brought in this case or that could have been brought in this case. If you have a pending lawsuit against Siskiyou Hospital, Inc. d/b/a Fairchild Medical Center, speak to your lawyer in that case immediately to see if this Notice will affect your other case. Remember, the exclusion deadline is [INSERT DATE (45 days from the Class Notice Date)].

14. *If I Exclude Myself From The Class, Can I Get Money From This Settlement?*

No. If you exclude yourself, you will not receive any money or other benefits from this lawsuit if the Settlement is approved by the Court. But, by excluding yourself, you may file a separate lawsuit against FMC regarding these same claims at your own expense.

15. *Do I Have A Lawyer In This Case?*

The Court appointed Mark D. Potter and James M. Treglio of Potter & Handy, LLP and Patrick N. Keegan of Keegan & Baker LLP as Class Counsel to represent you and the other Settlement Class Members. Together, these lawyers are called Class Counsel. You will not be separately charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense. For more information, please contact [name address and telephone number of a designate member of Class Counsel].

16. *How Will The Lawyers Be Paid?*

At the final approval hearing, Class Counsel will ask the Siskiyou Superior Court to approve payment to them from the Settlement Fund for their reasonable attorneys' fees and litigation costs from the Settlement Fund in an amount not to exceed six hundred and sixty thousand dollars (\$660,000.00), which is less than two and one-third percent (2 $\frac{1}{3}$ %) of value of the Identity Theft Protection Package subscription (\$28,569,708). The award of reasonable attorneys' fees and litigation costs would compensate Class Counsel for work that they reasonably have performed and costs they reasonably have incurred in this action, including engaging in discovery, investigating the facts, and attending mediation and court hearings and conferences.

Class Counsel will also ask the Court to approve payment to the Settlement Administrator in an amount not to exceed \$100,000 from the Settlement Fund for the cost of the Class Notice, settlement website, 800 number, and the cost of distributing and administering the benefits of the Settlement Agreement. Class Counsel will also ask the Court to approve an Incentive Award payment to each named Plaintiff from the Settlement Fund in an amount not to exceed \$5,000, for a total of \$25,000, in recognition of the risks taken by the named Plaintiffs as the Class Representatives in commencing the Action, both financial and otherwise.

17. *How Can I Tell the Court If I Object To The Settlement?*

You have the right to object to the Settlement if you do not like some or all of it. In your objection, you must state the reason(s) why you think the Court should not approve the Settlement. If the Court rejects your objection and approves the Settlement, you will still be bound by the terms of the Settlement.

To state a valid objection, you must provide the following information in your written objection: (i) full name, current address, current telephone number, and be personally signed; (ii) documentation sufficient to establish your membership in the Class, such as a copy of the Class Notice you received; (iii) a statement of the position(s) that you, as the objector, wish to assert, including the factual and legal grounds for the position(s); (iv) copies of any other documents that you, as the objector, wish to submit in support of your position; (v) whether you, as the objector, intend to appear at the Final Approval Hearing ("Notice of Intention to Appear"); and (vi) whether you, as the objector, are represented by your own lawyer, and if so, the name, address, and telephone number of your lawyer. To be timely, your written objection must be mailed to *Jane Doe, et al. v. Siskiyou Hospital, Inc. d/b/a Fairchild Medical Center*, Case No. CVCV21-49, c/o ILYM Group, P.O. Box [INSERT Number], [INSERT Settlement Administrator Address] and be postmarked no later than [INSERT DATE (45 days from the Class Notice Date)] [a designate member of Class Counsel, and Defendant's counsel].

Any member of the Settlement Class who does not mail an objection postmarked by [INSERT DATE (45 days from the Class Notice Date)] shall be deemed to have waived all objections and forever shall be foreclosed from making any objection to the fairness, justness, reasonableness or adequacy of the Settlement, and/or to object to any motion for payment from the Settlement Fund, unless otherwise ordered by the Court.

18. *What is the Difference Between Objecting to the Settlement vs. Asking to Be Excluded?*

Objecting to the Settlement is a way of formally telling the Court that you do not like something about the Settlement and do not think the Court should approve the Settlement for a particular reason or reasons. You can object only if you stay in the Settlement Class and do not request to be excluded. If the Court rejects your objection and approves the Settlement, you will still be bound by the terms of the Settlement.

Excluding yourself (i.e., “opting out” of) the Settlement is a way of 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 receive any benefits under the Settlement because you are excluded and the case no longer affects you. By excluding yourself, you will still be able to file a separate lawsuit against FMC regarding these same claims at your own expense.

19. *When and Where Will the Court Decide Whether to Give Final Approval of Settlement?*

The Honorable [INSERT name of judicial officer:]_____ will hold a Final Approval Hearing at _: __ .m. on ____ __, 2022 in Dept. No. #_, at the Superior Court of California for the County of Siskiyou, located at 411 Fourth Street, Yreka, California, 96097. At the Final Approval Hearing, the Court will consider whether the proposed Settlement is fair, reasonable, and adequate. The Court may also consider Class Counsel’s request for payment of attorneys’ fees and costs, payment of the Settlement Administrator’s fees and costs, and payment of Incentive Awards to the Class Representatives. If there are objections, the Court will consider them. After the Final Approval Hearing, the Court will decide whether to approve the proposed Settlement and how much to award to Class Counsel as fees and costs, to the Settlement Administrator as fees and costs, and the Incentive Awards to the Class Representatives.

The Final Approval Hearing may be moved to a different date or time or may be held remotely at the court’s election, without additional notice being mailed to the Class Members. For updated information, please visit <https://siskiyou.courts.ca.gov/general-information/courtroom-calendar>.

20. *Do I Have to Come to the Final Approval Hearing?*

No, you do not have to attend the Final Approval Hearing. Class Counsel will answer any questions the Court may have regarding the Settlement. However, you are welcome to attend the hearing at your own expense. If you have mailed in your valid written objection on time, the Court will consider it. You do not have to come to the Final Approval Hearing if you send in a written objection. However, you may attend the hearing if you have provided Notice of Intention to Appear as described above. You also may pay your own lawyer to attend the Final Approval Hearing, but their attendance is not necessary.

21. *May I Speak At the Final Approval Hearing?*

Yes, you may speak at the Final Approval Hearing if you have filed and served a Notice of Intention to Appear, as described above. If you wish to appear at the Final Approval Hearing, in person or by your own lawyer at your expense, to show cause why the proposed Settlement should not be approved as fair, adequate, and reasonable, or object to any motion for payment

from the Settlement Fund, you must file and serve a notice of intention to appear at the Final Approval Hearing (“Notice of Intention to Appear”) with the Court on or before [INSERT DATE (45 days after the Class Notice Date)]. The Notice of Intention to Appear should include copies of any papers, exhibits, or other evidence that the objecting Settlement Class Member (or his/her counsel) will present to the Court in connection with the Final Approval Hearing.

You will not be permitted by the Court to speak at the hearing if you exclude yourself (or opt-out) from the Settlement.

22. *What Happens If I Do Nothing At All?*

If you are a Settlement Class Member and do nothing after receiving this Notice, you will receive the Identity Theft Protection Package subscription afforded to the Class as provided by the terms of the Settlement. Additionally, you will be legally bound by the Settlement and will be releasing Siskiyou Hospital, Inc. d/b/a Fairchild Medical Center and Released Parties, as defined in Paragraph Y of Section II and described in Section X of the Settlement Agreement, from any and all claims or causes of action alleged in this Action and that could have been alleged in this Action.

23. *How Can I Get More Information?*

(1) If you have any questions, please contact the Settlement Administrator via U.S. Mail to *Jane Doe, et al. v. Siskiyou Hospital, Inc. d/b/a Fairchild Medical Center*, Case No. CVCV21-49, c/o ILYM Group, P.O. Box [INSERT Number], [INSERT Settlement Administrator Address] or via telephone at [INSERT Settlement Administrator 800 number].

(2) You may also visit the Internet website at [www.\[INSERT Settlement Website address\].com](http://www.[INSERT Settlement Website address].com) that has links to the settlement notice and the important documents in the case, viewable free of charge.

(3) You can also see any document filed in the case by requesting the file at the Siskiyou County Superior Court, 411 Fourth Street, Yreka, California, 96097.

(4) You can also contact Class Counsel directly. The contact information of the designated member of Class Counsel is set forth in answer to Question 15 above.

Please do not write or call the Court with questions about the Settlement.

By Order of the Superior Court of the State of California for the County of Siskiyou.

Dated: [DATE]

/s/
Judge of the Superior Court

Exhibit 2

Jane Doe, et al. v. Siskiyou Hospital, Inc. d/b/a
Fairchild Medical Center

c/o ILYM Group
P.O. Box #####
[City, State, ZIP]

«Barcode»

Claim#: «Claim#»-«CkDig»
«First1» «Last1»
«Addr1» «Addr2»
«City», «St» «Zip»
«Country»

Jane Doe, et al. v. Siskiyou Hospital, Inc.
d/b/a Fairchild Medical Center

Case No. CVCV-21-49
Siskiyou Superior Court

**Must Be Postmarked
No Later Than
[Insert Date]**

Claim Form

CLAIMANT INFORMATION

First Name															M.I.	Last Name														
Primary Address																														
Primary Address Continued																														
City																				State					Zip Code					
Email Address (if provided, we will communicate primarily by email about your claim. Your email will not be used for another purpose.)																														

You may submit this Claim Form if you are an eligible Class Member. Eligible Class Members are persons who were mailed a Notice of Data Breach letter sent on behalf of Fairchild Medical Center, dated November 25, 2020, stating that their personal information was on one of Fairchild Medical Center's computer server that may have been accessed by unauthorized individuals from approximately December 16, 2015 to July 31, 2020 due to a misconfiguration.

1. Did you receive a Notice of Data Breach letter from Fairchild Medical Center, dated November 25, 2020?

- Yes
- No

I declare under penalty of perjury that I am an eligible Class Member and the information provided above is true and accurate.

Signature: _____ Date (mm/dd/yyyy): _____

Your completed Claim Form must be postmarked no later than [INSERT DATE (45 days from the Class Notice Date)] addressed to: Jane Doe, et al. v. Siskiyou Hospital, Inc. d/b/a Fairchild Medical Center, Case No. CVCV21-49, c/o ILYM Group, P.O. Box [INSERT Number], [INSERT Settlement Administrator Address].

Exhibit 3

EXHIBIT 3

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

Before the Court is the Motion for Final Approval of the proposed Class Action Settlement between Jane Doe, Esther Burch, Elisabeth Schwab, Nicholas J. Smith and Tara F. Smith (collectively referred to as “Plaintiffs”) and Defendant Siskiyou Hospital, Inc. d/b/a Fairchild Medical Center (“FMC” or “Defendant”) on behalf of a proposed Class defined as “*All persons who were mailed a letter sent on behalf of Siskiyou Hospital, Inc. d/b/a Fairchild Medical Center entitled Notice of Data Breach, dated on or about November 25, 2020*” (the “Class”). The parties to the Settlement respectfully request that the Court enter an order:

- 1) Finding that the Settlement is fair, reasonable, adequate, and in the best interests of the Class;
- 2) Granting final approval of the Settlement and entering the Judgment, as provided for in the Settlement Agreement;
- 3) Granting the requests for payment of Class Counsels’ Fees and Expenses and Class Representatives’ Incentive Awards from the Settlement Fund, as provided for in the Settlement Agreement; and
- 4) Denying any objections as being without merit and/or frivolous.

Having reviewed and considered the parties’ Settlement Agreement and the Motion for Final Approval of the Class Action Settlement, and having heard and considered the oral argument of counsel with respect to the Motion, and GOOD CAUSE APPEARING, the Court FINDS as follows:

- 1) WHEREAS, Class Representative Plaintiffs and Defendant entered into a Settlement Agreement on November ____, 2021.
- 2) WHEREAS, on _____ ____, 2022, the Court entered an Order Granting Preliminary Approval (“Preliminary Approval Order”) that, among other things:
 - a) pursuant to California Code of Civil Procedure section 382 and California Rules of Court, Rule 3.769(d), conditionally certified, for purposes of implementing the Settlement Agreement only, a class consisting of defined as “*All persons*

who were mailed a letter sent on behalf of Siskiyou Hospital, Inc. d/b/a Fairchild Medical Center entitled Notice of Data Breach, dated on or about November 25, 2020.” Officers and directors of Defendant who received a Notice of Data Breach are excluded from the Class; (b) appointed Plaintiffs as the representatives of the Class; and (c) found that Class Counsel will fairly and adequately protect the interests of the Class and appointed them as Class Counsel;

- b) Found that the requirements of California Rules of Court, Rule 3.769, for preliminary settlement approval have been satisfied, and preliminarily approved the Settlement of the action set forth in the Settlement Agreement as being fair, just, reasonable, and adequate to the Class and its members, subject to further consideration at the Final Approval Hearing;
- c) Appointed _____ as the Settlement Administrator;
- d) Ordered Defendant to provide the Settlement Administrator the list of Class Members containing date of birth information for members of the Class as provided for in the Settlement Agreement;
- e) Ordered the Settlement Administrator to disseminate the Class Notice in the manner and form approved by this Court within twenty (20) days of entry of the Preliminary Approval Order. The Court found the Class Notice as the best notice practicable under the circumstances, constituting due and sufficient notice to the Class of the Settlement and the Final Approval Hearing, and complied fully with the requirements of section 382 of the California Code of Civil Procedure, California Rules of Court, Rules 3.766 and 3.769, and any other applicable laws; and
- f) Scheduled a Final Approval Hearing to be held before this Court on _____, 2022 at ____:____.m. in Department _ of this Court, before the Hon. _____, presiding.

3) WHEREAS, the Class Notice has been disseminated to the Settlement Class, as attested to in the Declaration of the Settlement Administrator.

- 4) WHEREAS, Class Counsel has provided the Court with declarations, and oral and written evidence explaining to the Court the nature and magnitude of the claims in question, the defenses to those claims, the number of class members, the specific information obtained through ample discovery and independent research by Class Counsel that may affect the Plaintiffs' claims, the factors that were considered in discounting the potential recovery for purposes of settlement, and the basis for concluding that the consideration being paid for the release of those claims represents a reasonable compromise.
- 5) WHEREAS on _____, 2022, a Final Approval Hearing was held regarding whether the Settlement, as set forth in the Settlement Agreement, is fair, reasonable, and adequate, and in the best interests of the Class, such hearing date being a due and appropriate number of days after such notice to the Settlement Class and the requisite number of days after such notice.
- 6) WHEREAS, the Court has given considerable weight to the involvement of a neutral mediator in assuring the Court that the settlement represents an arm's length transaction entered without self-dealing or other potential misconduct.
- 7) WHEREAS, the Court has an understanding of the amount that is in controversy and the realistic range of outcomes of the litigation and is independently satisfied that the consideration being received for the release of the claims of the Final Settlement Class is reasonable in light of the strengths and weaknesses of the claims and the risks of the particular litigation, and that the Settlement was not collusive.

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

- 1) The Court hereby incorporates by reference all definitions set forth in the Settlement

Agreement, as if those terms were defined herein, except where otherwise defined.

- 2) This Court has jurisdiction over the subject matter of the Action and over all Parties to the Action, including all members of the Final Settlement Class.
- 3) The form, content, and method of dissemination of the Class Notice given to the Class was adequate and reasonable, and constituted the best notice practicable under the circumstances. The notice, as given, provided valid, due, and sufficient notice of the proposed settlement, the terms and conditions set forth in the Settlement Agreement, and these proceedings to all Class Members entitled to such notice, and said notice fully satisfied the requirements of California Rules of Court, Rule 3.766(e) and (f), and due process.
- 4) Pursuant to this Court's Preliminary Approval Order, for the purposes of settling the Released Claims against Defendants in accordance with the Settlement Agreement, the following persons are "Final Settlement Class" for purposes of the Order:

All persons who were mailed a letter sent on behalf of Siskiyou Hospital, Inc. d/b/a Fairchild Medical Center entitled Notice of Data Breach, dated on or about November 25, 2020.

Excluded from the Final Settlement Class are those persons identified in Exhibit ____, attached to the Declaration of _____ submitted by the Settlement Administrator, who submitted timely and valid requests for exclusion from the Class and Settlement. These persons who have requested exclusion from the Class and Settlement shall neither receive any benefits of the terms of the Settlement Agreement nor share in the distribution of the Settlement Fund, and shall not be bound by this Order and Judgment.

- 5) The Class Representative Plaintiffs and Class Counsel fairly and adequately represented the interests of all Class Members in connection with settlement terms set forth in the Settlement Agreement.
- 6) Having considered all objections to the terms set forth in the Settlement Agreement, and having found them to either to be mooted or not supported by credible evidence,

- the Settlement Agreement is, in all respects, fair, adequate, reasonable, proper, and in the best interests of the Settlement Class, and is hereby approved.
- 7) Upon entry of this Order, compensation to the Final Settlement Class shall be effected pursuant to the terms of the Settlement Agreement.
 - 8) Plaintiffs and Defendant shall consummate the Settlement as provided by the terms of the Settlement Agreement. The Settlement Agreement, including each and every term and provision thereof, shall be deemed incorporated herein as if explicitly set forth in this Order and shall have the full force and effect of an order of this Court, except as may be otherwise explicitly stated by this Order.
 - 9) As provided in the Settlement Agreement, Class Members who failed to timely make a Request for Exclusion from the Settlement release Defendant and Released Parties from any and all claims or causes of action alleged in the Action and that could have been alleged in the Action, under the laws of any jurisdiction, including federal law, state law, and common law, whether at law or equity, that arise out of, relate to, or in any way concern the facts alleged in the Action. Plaintiffs and Class Members expressly waive and relinquish all such claims or causes of action to the fullest extent permitted by law. The Settlement Agreement does not affect the rights of Class Members who timely and properly made a Request for Exclusion from the Settlement Agreement.
 - 10) Upon issuance of this Final Approval Order: (i) the Settlement Agreement shall be the exclusive remedy for any and all Class Members, except those who have been found to have timely and validly requested exclusion, in accordance with the terms and provisions hereof; (ii) Defendant and Released Parties shall not be subject to liability or expense of any kind to any Class Member(s) for reasons related to the Litigation except as set forth herein; and (iii) Class Members shall be permanently barred from initiating, asserting, or prosecuting any and all released claims against Defendant and Released

Parties.

- 11) Having reviewed and considered all petitions and arguments raised by counsel for the Class Representative Plaintiffs' incentive awards separate and apart from the other terms of the Settlement Agreement, and in recognition of the Class Representative Plaintiffs' efforts on behalf of the Settlement Class, the Court hereby approves Plaintiffs' and Class Counsel's request for the payment of Class Representatives' Incentive Awards in the amount of \$_____ to each Class Representative, in addition to any recovery those Plaintiffs may receive under the settlement.
- 12) Having considered all petitions and arguments submitted and raised by Class Counsel for attorneys' fees, litigation costs and expenses, and having considered any objections thereto, the Court finds as reasonable and approves Plaintiffs' and Class Counsel's request for the payment of Class Counsels' Fees and Expenses in the sum of \$_____. All such attorneys' fees, litigation costs and expenses shall be distributed by the Settlement Administrator as provided in the Settlement Agreement.
- 13) The Court finds as reasonable and approves Plaintiffs' and Class Counsel's request for the payment of the administration costs of the Settlement Administrator in the sum of \$_____.
- 14) The Court sets a compliance hearing to confirm full administration of the Settlement in accordance with the Settlement and the terms of this Order Granting Final Approval of Class Action Settlement and Entering Judgment. The compliance hearing is set for _____, 2022 in Department __. The Court shall approve the distribution of any residual funds and a proposed *cypres* recipient at the time of the compliance hearing. Class Counsel shall submit a compliance report five court days prior to the compliance hearing.

- 15) Defendant is ordered to fund the Settlement Fund by providing payment of \$1,150,000, less any previously paid amount to the Settlement Fund to the Settlement Administrator, within fourteen (14) days of the Effective Date.
- 16) This Judgment is intended to be a final disposition of the above captioned action in its entirety and is intended to be immediately appealable.
- 17) Notwithstanding the entry of this Judgment, this Court shall retain jurisdiction with respect to all matters related to the administration and consummation of the settlement, and any and all claims, asserted in, arising out of, or related to the subject matter of the lawsuit, including but not limited to all matters related to the settlement and the determination of all controversies relating thereto.
- 18) The Court directs the Clerk to enter Judgment as provided herein.

IT IS SO ORDERED.

DATED: _____

JUDGE OF THE SUPERIOR COURT

Exhibit B

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Overview of Our Firm:

ILYM Group, Inc is a class action administration, legal notification and direct media outlets firm. With over 20 years of combined experience, our primary commitments are to client satisfaction, cutting edge technology and data management security, seamless case management and delivery of case expectations. Because, of our adherence to these commitments, ILYM Group, Inc is one of the fastest growing, Woman Owned Business (NAPW), in the industry and has become the go-to firm for class action administration and legal notification. ILYM Group, Inc works with the top defense and plaintiff firms across the United States.

AREAS OF EXPERTISE:

- Wage and Hour
- FLSA
- Insurance and Health Care
- Consumer
- Finance
- Employment and Labor
- TCPA
- Antitrust
- Securities

Malta vs. Wells Fargo Home Mortgage Inc.

- TCPA Case with a class size of 5,200,000.

John Lofton, et al. v. Collecto, Inc.

- TCPA Case with a class size of 207,036.

Blaise Picchi et al., vs. World Financial Network Bank, et al.

- TCPA Case with a class size of 856,507. Performed a reverse look-up to obtain Class Member information. We were able to obtain contact information for 93.21% that did not have a valid address associated with the contact record.

Jacqueline Jones vs. I.Q. Data International, Inc.

- TCPA Case with a class size of 93,993. Performed a reverse look-up to obtain Class Member information. We were able to obtain contact information for 93.82% of the Class that did not have a name or address.

Reza Barani vs. Wells Fargo Bank, N.A.

- TCPA Case with a class size of 82,874. Performed a reverse look-up to obtain Class Member information. We were able to obtain contact information for 87.84% of the Class that did not have a name or address.

Kimberly Roberts, et al. v. T.J. Maxx of CA, LLC, et al.

- Wage & Hour Case with a class size of 82,549.

Robert Stone, et al. v. Universal Protection Services, LP, et al.

- Wage & Hour Case with a class size of 75,351.

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

ILYM Group, Inc. is operational 24/7 delivering true client and class member availability. Our call center is open 24/7/365 days a year, even holidays and is full digital, automated and multilingual. ILYM Group Inc.'s mail and media center is a state-of-the-art facility, fully digital and USPS integrated. We can accommodate cases of any size, from ten class members to multi-millions. ILYM Group, Inc. prides itself on its commitment to service, quality, value pricing and availability. We've committed ourselves to being the best Class Action Administration and Notification Company in our industry. Through our years of experience, ILYM Group, Inc. is dedicated to exceeding our client's expectations.

PRE-SETTLEMENT CONSULTATION

- **Administration Consultation:** Meeting to determine objectives and expectations by both parties. All reporting and responsibilities will be agreed upon as will the seamless process to access data. We will also discuss the opportunities to identify class members with the proposed print and web-based media for optimum reach. Additionally, all expectations and delivery of those results will be planned for and mapped accordingly.

MAILING AND NOTIFICATION

- **Fulfillment and Correspondence:** All provided settlement information will be published via United States Postal Service (USPS first class standards) to the proposed mailing class. Notifications will include a Claim ID and how to respond, or Opt-Out, based on the stipulations.
- **Reverse Lookup:** A confidential reverse phone or reverse cell lookup will provide; owner's name, location, address history, carrier, phone type (landline or cell phone) and more. Our reverse lookup is powered by an extensive database which includes hundreds of millions of cell phone, landline, residential and unlisted number. Our software collects data from multiple data sources and carriers across the US. Our average "hit ratio" ranges from 93% - 98%.
- **Creating Class Database:** All Data is verified and filtered to eliminate duplication against the United States Postal Service (USPS) National Change of Address (NCOA) database. ILYM Group, Inc. will also certify and validate with the Coding Accuracy Support System (CASS) and Track Your Class (TYC) for zone delivery.
- **Claim Forms:** ILYM Group, Inc. will email all claim forms, whenever possible, to have accurate reporting and tracking of all class requests. Emails will contain full text claim forms.
- **Translations:** When needed, ILYM Group, Inc. will translate notices to any language needed to reach Class members.
- **Remails:** Returned mail will be scanned, re-verified and re-mailed. All returned mail is data warehoused and reported to both parties' counsels in a weekly report.

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

MEDIA & INTERNET BANNER ADS

Notice Publication

- **Legal Notices:** ILYM Group, Inc. can provide a Media Proposal to maximize reach based on quantitative and qualitative methodologies.
- **Electronic Publication (Banner Ads):** ILYM Group, Inc. will utilize Internet Banner Noticing efforts and web technologies for maximum reach via the World Wide Web.
- **Electronic Mail Notices:** ILYM Group, Inc. can email an estimated number of class members a full text notice. We are compliant with all search engines and Internet Service Providers (ISP) so that our emails are always “White List” accepted with minimal returns.
- **Reach:** Every case has its own proposed reach and exposure percentage. We filter, verify and scrub the data to improve reach results.
- **Services Included:** Analysis, Documentation, Research and Methodologies, Execution and Reporting.

PROJECT MANAGEMENT

- **Case Notification, Maintenance and Management:** ILYM Group, Inc.’s Senior Project Managers will provide all Account Management, Pre-Consultation to Case Conclusion, Reporting and Claims Processing. Design, negotiation and implementation, upon approval, of all forms and notices, all distribution reporting and filings with the court.
- **Claims Processing:** All claims can be submitted by USPS, Internet, Fax, and Email or Online submission. Claims will be processed and recorded with matching ILYM database ID’s. E-claims will have corresponding records of intake. All deficient claims will be notified via USPS and make provisions for class member to re-submit claims.
- **Call Center:** ILYM Group, Inc. will support class members with a toll-free number to get the most up-to-date case settlement information. Customer service representatives will be available 24/7/365 as will recorded messages. All class members are given the options to best serve their needs and to receive case information.
- **Internet Support:** Class members can log on to a provided website and view, print or submit information and claim forms regarding the settlement. Frequently Asked Questions (FAQ’s) will be provided as well. Class members may download the claim form with mailing and fax instructions provided on the form.
- **Objection and Request for Exclusion:** All objections and request for exclusion, opt-out, will be data warehoused, dated and reported. Postmarks will serve for exclusion dating and will be forwarded to both counsels’ no more than 5 days post submission. Objection will be reviewed by ILYM Group, Inc. to determine the timeliness and basis of the objection. All information will be forwarded to both parties counsel, along with any representation information from the class member, within 5 days.

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

DATA ADMINISTRATION AND NETWORK SECURITY

- **Network Security:** All provided data is encrypted, stored and hosted in a Tier 4, SAS70 certified environment.
- **Database Administration:** To be developed with all electronically provided data. Class members will be assigned ILYM Group, Inc. internal tracking ID's to ensure all collected member data coincides with all received claims.

DISTRIBUTION AND SETTLEMENT FUNDING

- **Distribution and Management:** Upon receipt of settlement funds, ILYM Group, Inc. will open a QSF Account for proceeds of the Gross Settlement Payment. The deposited funds will then be managed per the Settlement Agreement. All funds will be settled with class members and counsel along with all federal and state income tax reporting.
- **Check Printing and Mailing:** Claims processed, quantified and approved by clients, will be processed for distribution. All checks will be printed and mailed via USPS first class standards. ILYM Group, Inc. will reissue checks in accordance with the Settlement Agreement.
- **Preparation, Filing and Reporting of Taxes:** ILYM Group, Inc. will ensure taxes are filed in accordance to all federal, state and local employment tax returns. All taxes associated with the settlement will be paid on time to tax authorities. All filings and returns (e.g., 1099s, W-2s, etc.) will be done properly and timely with the appropriate authorities. All QSF steps and obligations with federal, state and/or local law will be followed.

CASE CONCLUSION

- **Data Manager Final Report:** All database and electronic documentation will be sent in reports weekly and at the conclusion of the Administration engagement. Call center activity, e-claims, mailed, and faxed claims will be included in all reporting.
- **Project Manager Final Report:** All case and class related information will be provided on a weekly basis and at the conclusion of the Administration engagement. Mailing and media final analysis, exclusions, objections, and all other claims processing outcomes, status reports and final court documentations will be included.
- **Affidavits:** ILYM Group, Inc. will provide all affidavits in support of analysis and media reach, final approvals and settlement. Expert Testimony and Media Methodologies will be determined.
- **Document Retention:** Unless otherwise directed, ILYM Group, Inc. will destroy all undeliverable notices on the effective date of the settlement or when the case is no longer subject to appeal. ILYM Group, Inc. will correspond for one year after the final distribution or until the case is no longer subject to appeal.