

# Exhibit D

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**  
**United States District Court, District of Alaska**

*Thomas Byers et. al. v. OrthoAlaska, LLC.*  
**Case No. 3:23-cv-00242**

**A Court has authorized this Long Form Notice (“Notice”). This is not a solicitation from a lawyer.**

---

**If You Previously Received a Notice From OrthoAlaska On Or About October 11, 2023 Stating Your Personally Identifying Information Stored In Defendant’s Files May Have Been Impacted, You Are Eligible to Receive Compensation from a Class Action Settlement**

---

- If you are receiving this Notice, you are eligible to receive a Settlement Payment from a proposed class action settlement. The Litigation is titled *Thomas Byers et. al. v. OrthoAlaska, LLC.*, Case No. 3:23-cv-00242 and is pending in the United States District Court, District of Alaska. The persons that filed the class action lawsuit are called Plaintiffs or Settlement Class Representatives and the company they sued is OrthoAlaska, LLC (Defendant or OrthoAlaska).
- The Litigation alleges that on or about October 12, 2022, Defendant became aware of a cyber-security incident impacting certain company systems. The Litigation alleges that the Data Incident impacted certain Private Information, or PII, stored in Defendant’s files, including full names and addresses, dates of birth, Social Security Numbers, payment card numbers, driver’s license and/or state identification numbers, account and routing numbers, as well as information relating to health insurance and medical information, or PHI. Specifically, the information of approximately 161,130 people may have been accessed as a result of this Data Incident.
- OrthoAlaska denies any wrongdoing whatsoever and denies that it has any liability but has agreed to settle the Litigation on a class-wide basis.
- Settlement Class Members under the Settlement Agreement will be eligible to receive:
  - ❖ **Compensation for Out-of-Pocket Losses:** Compensation from the Settlement Fund, up to a total of \$4,000 per Settlement Class Member, upon submission of an Approved Claim and supporting documentation, for Out-of-Pocket Losses incurred as a result of the Data Incident;

In addition to compensation for Out-of-Pocket Losses, Settlement Class Members may select one of the following:

- ❖ **Cash Fund Payment:** After the distribution of Administrative Expenses, Service Awards, Out-of-Pocket Losses claims, Fee Award and Expenses, each Settlement Class Member that submits an Approved Claim may receive a *pro rata* cash payment of up to \$50 from the remaining Settlement Fund; OR
- ❖ **Privacy Shield:** Instead of a cash fund payment Settlement Class Members are eligible to make a claim for one (1) year of data protection and monitoring services from Privacy Shield.

Questions? Go to [www.website.com](http://www.website.com) or call (XXX) XXX-XXXX

- To submit a Claim or obtain more information visit [www.website.com](http://www.website.com) or call (XXX) XXX-XXXX to request a Claim Form no later than <<Claims Deadline>>.
- **Please read this Notice carefully. Your legal rights will be affected, and you have a choice to make at this time.**

	<b>Summary of Legal Rights</b>	<b>Deadline(s)</b>
<b>Submit a Claim Form</b>	The only way to receive a compensation for Out-of-Pocket Losses, cash fund payment or data protection and monitoring services from the settlement.	Submitted or postmarked on or before <<Claims Deadline>>.
<b>Exclude Yourself by Opting Out of the Class</b>	Receive no benefit from the settlement. This is the only option that allows you to keep your right to bring any other lawsuit against OrthoAlaska relating to the Data Incident.	Mailed and postmarked on or before <<Opt-Out Deadline>>.
<b>Object to the Settlement and/or Attend the Final Approval Hearing</b>	You can submit an objection stating why you agree or disagree with the settlement. The Court cannot order a different settlement. You can also ask to speak at the Final Approval Hearing on <<Final Approval Hearing date>>, about the fairness of the settlement, with or without your own attorney.	Mailed and postmarked on or before <<Objection Deadline>>.
<b>Do Nothing</b>	You will not receive any Settlement Payment from this class action settlement.	N/A

- Your rights and options as a Settlement Class Member – **and the deadlines to exercise your rights** – are explained in this Notice.
- The Court still will have to decide whether to approve the settlement. Payments to Settlement Class Members will be made only if the Court approves the settlement and after any possible appeals are resolved.

**What This Notice Contains**

**Basic Information** ..... 4

**Who is in the Settlement** ..... 4

**The Settlement Benefits—What You Get if You Qualify** ..... 5

**How Do You Submit a Claim** ..... 6

**Excluding Yourself from the Settlement** ..... 7

**Objecting to the Settlement** ..... 8

**The Lawyers Representing You** ..... 9

**The Court’s Final Approval Hearing** ..... 9

**If You Do Nothing** ..... 10

**Additional Information** ..... 11

## BASIC INFORMATION

### 1. Why is there a Notice?

The Court authorized this Notice because you have a right to know about the settlement, and all of your options, before the Court decides whether to give final approval to the settlement. This Notice explains the nature of the lawsuit that is the subject of the Settlement, the general terms of the settlement, and your legal rights and options.

The Honorable Judge Sharon Gleason of the United States District Court, District of Alaska is overseeing this case captioned as *Thomas Byers et. al. v. OrthoAlaska, LLC.*, Case No. 3:23-cv-00242. The people who brought the lawsuit are called the Settlement Class Representatives. The company being sued, OrthoAlaska, LLC, is called the Defendant.

### 2. What is the Litigation about?

The Litigation alleges that on or about October 12, 2022, Defendant became aware of a cybersecurity incident impacting certain company systems. The Litigation alleges that the Data Incident impacted certain private and personally identifying information stored in Defendant's files, including full names and addresses, dates of birth, Social Security Numbers, payment card numbers, driver's license and/or state identification numbers, account and routing numbers, health insurance and medical information (these types of information are referred to as protected health information or PHI and personally identifiable information or PII). Specifically, the information of approximately 161,130 people may have been accessed as a result of this Data Incident.

OrthoAlaska denies any wrongdoing whatsoever. No court or other judicial body has made any judgment or other determination that OrthoAlaska has done anything wrong.

### 3. Why is this a class action?

In a class action, one or more people called "Settlement Class Representatives" or "Plaintiffs" sue on behalf of all people who have similar claims. Together, all of these people are called a "Settlement Class," and the individuals are called "Settlement Class Members." One court resolves the issues for all Settlement Class Members, except for those who exclude themselves from the Settlement Class.

### 4. Why is there a settlement?

The Court has not decided in favor of the Plaintiffs or OrthoAlaska. Instead, both sides agreed to the settlement. The settlement avoids the cost and risk of a trial and related appeals, while providing benefits to Settlement Class Members. The Settlement Class Representatives appointed to represent the Settlement Class, and the attorneys for the Settlement Class, Settlement Class Counsel, think the settlement is best for all Settlement Class Members.

## WHO IS IN THE SETTLEMENT?

### 5. How do I know if I am part of the settlement?

Questions? Go to [www.website.com](http://www.website.com) or call (XXX) XXX-XXXX

You are affected by the settlement and potentially a Settlement Class Member if you are an individual identified on the Settlement Class List whose PII and/or PHI may have been involved in the Data Incident and who do not timely elect to be excluded from the Settlement Class.

Only Settlement Class Members are eligible to receive benefits under the settlement. Excluded from the Settlement Class are: (1) the judge presiding over the Litigation, and members of their direct family, (2) Defendant, its subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or Defendant's parent companies have a controlling interest and their current or former officers and directors, and (3) Settlement Class Members who submit a valid Request for Exclusion prior to <<the Opt-Out Deadline>>.

## 6. What if I am not sure whether I am included in the settlement?

If you are not sure whether you are included in the settlement, you may call (XXX) XXX-XXXX with questions. You may also write with questions to:

OrthoAlaska Data Incident Litigation  
c/o Kroll Settlement Administration LLC  
PO Box XXXX  
New York, NY 10150-XXXX

## THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY

### 7. What does the settlement provide?

The settlement provides the following compensation available to Settlement Class Members who submit Approved Claims. Settlement Class Members may submit claims for compensation for Out-of-Pocket Losses and either a cash fund payment or one year of Privacy Shield services. Any Remainder Funds will be sent to Court-approved charitable organization(s) as a *cy pres* distribution. Claims will be subject to review for completeness, plausibility, and traceability to the Data Incident by the Settlement Administrator. Approved Claims will be reimbursed.

Settlement Class Members submitting claims for Out-of-Pocket Losses must submit documentation supporting their claims. This can include receipts or other documentation that document the costs incurred but does not include documentation that is “self-prepared” by the claimant. “Self-prepared” documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but can be considered to add clarity or support to other submitted documentation.

Following the Data Incident, OrthoAlaska implemented a number of business practice changes and security enhancements designed to prevent future data security incidents.

### 8. What payments are available for reimbursement under the Settlement?

Settlement Class Members that submit a valid and timely Claim Form may qualify for one of the following:

- a) **Compensation for Out-of-Pocket Losses:** Compensation from the Settlement Fund, up to a total of \$4,000 per Settlement Class Member, upon submission of an Approved Claim and

Questions? Go to [www.website.com](http://www.website.com) or call (XXX) XXX-XXXX

supporting documentation, for Out-of-Pocket Losses incurred as a result of the Data Incident.

- These Out-of-Pocket Losses may include the following:
  - *Unreimbursed losses relating to fraud or identity theft*; professional fees including attorneys' fees, accountants' fees, and fees for credit repair services; costs associated with freezing or unfreezing credit with any credit reporting agency; credit monitoring costs that were incurred on or after mailing of the notice of the Data Incident, through the date of claim submission; and miscellaneous expenses such as notary, fax, postage, copying, mileage, and long-distance telephone charges.

In addition to compensation for Out-of-Pocket Losses, Settlement Class Members may select ONE of the following:

- b) **Cash Fund Payment:** After the distribution of Administrative Expenses, Service Awards, Out-of-Pocket Losses claims, Fee Award and Expenses, each Settlement Class Member that submits an Approved Claim, as determined by the Settlement Administrator, may receive a *pro rata* cash payment of up to \$50 from the remaining Settlement Fund; OR
- c) **Privacy Shield:** Instead of a cash fund payment Settlement Class Members are eligible to make a claim for one (1) year of data protection and monitoring services from Privacy Shield.

## HOW DO YOU SUBMIT A CLAIM?

### 9. How do I get a Settlement benefits?

To receive compensation for Out-of-Pocket Losses, a cash fund payment or Privacy Shield, you must complete and submit a Claim Form online at [www.website.com](http://www.website.com) or by mail to *OrthoAlaska Data Incident Litigation*, c/o Kroll Settlement Administration LLC, PO Box XXXX, New York, NY 10150-XXXX. Read the Claim Form instructions carefully, fill out the Claim Form, provide the required documentation, and submit online by <<Claims Deadline>> or by mail postmarked by <<Claims Deadline>>.

### 10. How will claims be decided?

The Settlement Administrator will decide whether and to what extent any claim made on each Claim Form is an Approved Claim. The Settlement Administrator may require additional information from you. If you do not provide the additional information in a timely manner, the claim will be considered invalid and will not be paid.

For invalid claims, the Settlement administrator will send Settlement Class Members submitting such claims a deficiency notice giving the Class Members twenty-one (21) days to cure any deficiencies.

Questions? Go to [www.website.com](http://www.website.com) or call (XXX) XXX-XXXX

**11. When will I get my compensation or cash fund payment?**

The Court will hold a Final Approval Hearing on <<Date>>, at <<Time>> a.m. AKT to decide whether to approve the settlement. If the Court approves the settlement, there may be appeals from that decision and resolving them can take time. It also takes time for all of the Claim Forms to be processed. Please be patient. Payments will begin after the settlement has obtained Court approval and the time for all appeals has expired.

**12. What am I giving up as part of the settlement?**

OrthoAlaska and its past or present agents, subsidiaries, parents, and affiliates, and their respective employees, officers, directors, shareholders, partners, members, managers, owners, heirs, executors, predecessors, successors, assigns, insurers (including excess insurers and reinsurers), vendors, attorneys, and/or sureties (“Released Parties”) will receive a release from all claims that could have been or that were brought against OrthoAlaska relating to the Data Incident. Thus, if the settlement becomes Final and you do not exclude yourself from the settlement, you will be a Settlement Class Member and you will give up your right to sue the Released Parties. This release is described in the Settlement Agreement, known as Released Parties (as set out above), which is available at [www.website.com](http://www.website.com). If you have any questions, you can talk to the law firms listed in Question 18 for free or you can talk to your own lawyer.

**EXCLUDING YOURSELF FROM THE SETTLEMENT**

If you do not want to be part of the settlement, then you must take steps to exclude yourself from the Settlement Class. This is sometimes referred to as “opting out” of the Settlement Class.

**13. If I exclude myself, can I get a payment from this settlement?**

No. If you exclude yourself, you will not be entitled to receive any benefits from the settlement.

**14. If I do not exclude myself, can I sue Released Parties for the same thing later?**

No. Unless you exclude yourself, you give up any right to sue OrthoAlaska and any other Released Party for any claim that could have been or was brought relating to the Data Incident. You must exclude yourself from the settlement to start your own lawsuit or to be part of any different lawsuit relating to the claims in this case.

**15. How do I exclude myself from the settlement?**

To exclude yourself, send a Request for Exclusion or written notice of intent to opt-out that says you want to be excluded from the settlement in *Thomas Byers et. al. v. OrthoAlaska, LLC.*, Case No. 3:23-cv-00242. The Request for Exclusion must include: (1) the name of the proceeding; (2) the individual’s full name, current address, personal signature; and (3) the words “Request for Exclusion” or a comparable statement that the individual does not wish to participate in the settlement. You must mail your Request for Exclusion to the Settlement Administrator postmarked

Questions? Go to [www.website.com](http://www.website.com) or call (XXX) XXX-XXXX



by <<Opt-Out Deadline>>, to:

OrthoAlaska Data Incident Litigation  
c/o Kroll Settlement Administration LLC  
PO Box XXXX  
New York, NY 10150-XXXX

## OBJECTING TO THE SETTLEMENT

### 16. How do I tell the Court that I do not like the settlement?

You can tell the Court that you do not agree with the settlement or some part of it by objecting to the settlement. For an objection to be a valid objection under the settlement, it must be in writing, postmarked by the Objection Deadline, mailed to the Settlement Administrator at the address listed below, postmarked by **no later than <<Objection Deadline>>**.

OrthoAlaska Data Incident Litigation  
c/o Kroll Settlement Administration LLC  
PO Box XXXX  
New York, NY 10150-XXXX

Your objection must be written and must include all of the following:

- i) the name of the proceedings;
- ii) the Settlement Class Member's full name, current mailing address, email address, and telephone number;
- iii) a statement of the specific grounds for the objection, as well as any documents supporting the objection;
- iv) the identity of any attorneys representing the objector;
- v) a statement regarding whether the Settlement Class Member (or his/her attorney) intends to appear at the Final Approval Hearing;
- vi) a statement identifying all class action settlements objected to by the Settlement Class Member in the previous five (5) years; and
- vii) the signature of the Settlement Class Member or the Settlement Class Member's attorney.

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

Objecting is telling the Court that you do not like the settlement or parts of it and why you do not think it should be approved. You can object only if you are a Settlement Class Member. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class and do not want to receive any payment from the settlement. If you exclude yourself, you have no basis to object because you are no longer a Settlement Class Member, and the case no longer affects you. If you submit both a valid objection and a valid Request for Exclusion, you will be deemed to have only submitted the request to be excluded.

## THE LAWYERS REPRESENTING YOU

### 18. Do I have a lawyer in this case?

Questions? Go to [www.website.com](http://www.website.com) or call (XXX) XXX-XXXX

Yes. The Court appointed Milberg Coleman Bryson Phillips Grossman, PLLC, Chestnut Cambronne, P.A., and Cole & Van Note, as Settlement Class Counsel to represent the Settlement Class in settlement negotiations. If you want to be represented by your own lawyer, you may hire one at your own expense.

### 19. How will the lawyers be paid?

Settlement Class Counsel will file a Fee and Expense Application for Settlement Class Counsel's Fee Award and Expenses not to exceed one-third (1/3) of the Settlement Fund for fees, or \$395,000, plus reimbursement of reasonable case costs and expenses. Any such award would compensate Settlement Class Counsel for investigating the facts, litigating the case, and negotiating the settlement and will be the only payment to them for their efforts in achieving this settlement and for their risk in undertaking this representation on a wholly contingent basis.

Settlement Class Counsel will also ask the Court for Service Awards up to \$2,500 for each of the Settlement Class Representatives, from the Settlement Fund, in recognition of their contributions to this Litigation.

Any Fee and Expense Application that will include a request for Service Awards to the Settlement Class Representatives must be approved by the Court. The Court may award less than the amounts requested. Within three (3) days after filing the Fee and Expense Application, the Fee and Expense Application shall be posted on the Settlement Website.

## THE COURT'S FINAL APPROVAL HEARING

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

The Court will hold a Final Approval Hearing at <<Time>> AKT on <<Date>>, at the <<Court Address>>, Room [redacted] as ordered by the Court. At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are timely and valid objections, the Court will consider them and will listen to people who have asked to speak at the hearing if such a request has been properly made. The Court will also rule on the Fee and Expense Application and Service Awards for the Settlement Class Representatives. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take. The hearing may be moved to a different date or time without additional notice, so Settlement Class Counsel recommends checking the Settlement Website [www.website.com](http://www.website.com), or calling (XXX) XXX-XXXX.

### 21. Do I have to attend the hearing?

No. Settlement Class Counsel will present the Settlement Class to the Court. You or your own lawyer are welcome to attend at your expense, but you are not required to do so. If you send an objection, you do not have to visit the Court to talk about it. As long as you filed your written objection on time with the Court and mailed it according to the instructions provided in Question 16, the Court will consider it.

### 22. May I speak at the hearing?

You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must

Questions? Go to [www.website.com](http://www.website.com) or call (XXX) XXX-XXXX

file an objection according to the instructions in Question 16, including all the information required. Your objection must be **mailed** to the Settlement Administrator, at the mailing addresses listed below, postmarked by no later than the **Objection Deadline**.

### IF YOU DO NOTHING

#### 23. What happens if I do nothing?

If you do nothing, you will not receive any benefits from this settlement. If the settlement is granted final approval and becomes Final, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against OrthoAlaska or the other Released Parties based on any claim that could have been or that was brought relating to the Data Incident.

### ADDITIONAL INFORMATION

#### 24. How do I get more information?

This Notice summarizes the settlement. More details are in the Settlement Agreement itself. A copy of the Settlement Agreement is available at **www.website.com**. You may also call the Settlement Administrator with questions or to receive a Claim Form at **(XXX) XXX-XXXX**.

#### 25. What if my contact information changes or I no longer live at my address?

It is your responsibility to inform the Settlement Administrator of your updated information. You may do so at the address below:

OrthoAlaska Data Incident Litigation  
c/o Kroll Settlement Administration LLC  
PO Box **XXXX**  
New York, NY 10150-**XXXX**