

Exhibit B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Master File No. 1:23-cv-21060-Williams

In re INDEPENDENT LIVING SYSTEMS)	<u>CLASS ACTION</u>
DATA BREACH LITIGATION)	
_____)	
This Document Relates To:)	
)	
ALL ACTIONS.)	
_____)	

**PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT AND MEMORANDUM OF LAW IN SUPPORT**

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Plaintiffs, David Asato, Katrina Berres, Ge Xiao Fang, Melinda Geleng, Mathew George, Maria Gomez, Dimitri Gutierrez, Chelsea Jensen, Rhianna McMullen, David Perez, Mark Salzano, Ernest Scoggan, and Ryan Smith (“Plaintiffs” or “Class Representatives”) respectfully move for preliminary approval of the Class Action Settlement Agreement¹ they reached with Defendant Independent Living Systems LLC (“ILS” or “Defendant”) (collectively, “the Settling Parties”) and to direct notice of the proposed Settlement to the Settlement Class (defined below), pursuant to Rule 23(e) of the Federal Rules of Civil Procedure. The Settling Parties have reached a proposed settlement that, if the Court approves, will resolve the Plaintiffs’ and Settlement Class Members’ claims against Defendant arising from the Data Security Incident (defined below) at issue in this Litigation. In support of this Motion, Plaintiffs submit herewith the Settlement Agreement and the Joint Declaration of Proposed Co-Lead Class Counsel as **Exhibit 2**.

I. INTRODUCTION

This class action arises from the Data Security Incident that Plaintiffs allege compromised the security of their and other Settlement Class Members’ Sensitive Information, including, but not limited to, PII and PHI Defendant acquired from current and former patients, clients, and other persons during the ordinary course of its business, and which Plaintiffs allege Defendant was duty-bound to protect from unauthorized persons, including cyber criminals. The Sensitive Information affected by the Data Security Incident included a wide variety of information, including name, Social Security number, taxpayer identification numbers, medical or health insurance information, and other sensitive information, which in the hands of cyber criminals can result in identity theft.

¹ Unless defined, capitalized terms have the same meaning attributed to them in the Class Action Settlement Agreement (“Settlement Agreement” or “SA”), attached hereto as **Exhibit 1**.

II. SUMMARY OF THE LITIGATION

On or around on July 5, 2022, Defendant became aware of a malicious third-party who accessed and acquired files on Defendant's computer network, and who made certain files inaccessible to Defendant (*i.e.*, the "Data Security Incident") and compromised certain Sensitive Information belonging to impacted individuals. Defendant notified impacted individuals of the Data Security Incident on or around March 14, 2023. On March 17, 2023, the first class action lawsuit was filed against Defendant, following which several other actions were filed against Defendant in quick succession, each arising out of the Data Security Incident (collectively, the "Civil Actions"). On July 31, 2023, the Civil Actions were consolidated before the Honorable United States District Judge Kathleen M. Williams and United States Magistrate Judge Lisette M. Reid in the United States District Court for the Southern District of Florida under a single civil action number. On November 13, 2023, Plaintiffs filed their operative Complaint on behalf of a putative Nationwide Class. *See* ECF 44.

Defendant moved to dismiss the Complaint on December 13, 2023 (ECF 48), which Plaintiffs opposed. *See* ECF 53. On May 14, 2024, Defendant moved to stay discovery pending resolution of its motion to dismiss. *See* ECF 64. Plaintiffs opposed a stay of discovery (ECF 65), and the Court denied Defendant's motion on June 17, 2024. *See* ECF 67.

Between April 2024 and September 2024, the Settling Parties engaged in significant discovery including, but not limited to, Plaintiffs serving Defendant with three sets of requests for production of documents and one set of interrogatories, Plaintiffs serving nine separate subpoenas on third-parties involved in Defendant's data security or the Data Security Incident, and Defendant serving document requests and interrogatories on all Plaintiffs.

On September 10, 2024, the Settling Parties jointly moved the Court to stay the Litigation pending the Settling Parties' November 6, 2024 mediation before Mr. Seth Aronson of Phillips ADR – a highly respected mediator with substantial experience with data privacy class actions. *See* ECF 77. The Court granted the Settling Parties' motion. *See* ECF 78.

On November 6, 2024, the Settling Parties held an arm's-length, all-day mediation with Mr. Aronson. Although the Settling Parties made progress, no resolution was reached. However, the Settling Parties agreed that another effort to resolve the case through mediation was appropriate, and jointly requested the Court continue the stay pending further mediation efforts. *See* ECF 81.

On December 11, 2024, the Settling Parties then engaged in their second attempt at mediation, which was another full-day mediation session conducted by Mr. Aronson. Over the course of the day, the Settling Parties engaged in arm's-length, hard-fought negotiations, which ultimately led to agreements to the mediator's proposal. The Settling Parties reached an agreement in principle on December 18, 2024, the terms of which were later finalized by way of the Settlement Agreement and its attached exhibits.

The Settlement Agreement was executed, subject to preliminary and final approval by the Court.

III. SUMMARY OF SETTLEMENT

The Settlement Agreement negotiated on behalf of the Settlement Class provides for the Settlement Amount of Fourteen Million Dollars (\$14,000,000.00) ("Settlement Amount") to be paid by wire transfer, along with any accrued interest, into the Settlement Fund. SA ¶¶1.38, 2.1. The Settlement Fund is non-reversionary. The Settlement Agreement provides that the Settlement Fund shall be the sole source of monetary funds for the payment of Settlement Benefits to

Settlement Class Members as follows: (i) Pro Rata Cash Payments from Net Settlement Fund; and (ii) reimbursement for Out-of-Pocket losses up to \$5,000. SA ¶¶3.1-3.7. Any Residual Funds shall be distributed to the Alzheimer's Association, a non-profit, cy pres recipient. SA ¶3.8.

A. The Settlement Class

The Settlement Class is defined as “all persons residing in the United States whose personal information was exposed in the Data Breach at ILS.” SA ¶1.39. The Settlement Class consists of approximately 3.9 million individuals. *Id.*

B. The Settlement Benefits

1. **Out-of-Pocket Loss Claims.** Settlement Class Members may claim reimbursement up to a maximum amount of \$5,000 for documented Out-of-Pocket Losses, that more likely than not resulted from the Data Security Incident, subject to review and discretion of the Settlement Administrator. SA ¶3.3. Claims for approved Out-of-Pocket Loss Claims shall be paid prior to determining the amount of Cash Payments mentioned below, in paragraph 2. *Id.* ¶3.3. No Settlement Class Member may have more than one Approved Claim. *Id.* ¶3.4. For any payments returned to the Settlement Administrator as undeliverable or for reissue of payments to the estate of a deceased Settlement Class Member, the Settlement Administrator shall follow the detailed process laid out in the Settlement Agreement. *Id.* ¶3.6-3.7.

2. **Pro Rata Cash Payment Claims.** All Settlement Class Members who submit an Approved Claim, may request one form of Cash Payment (either California Cash Payment or Pro Rata Cash Payment) (the “Cash Payment”) after they submit their Claim Form to the Settlement Administrator by the deadline. SA ¶3.2. One Cash Payment will be issued per Approved Claim and will be paid from the Net Settlement Fund. *Id.*

(a) California Cash Compensation (California Cash Payment): After the payment for Out-of-Pocket Loss Claims, the Settlement Administrator will issue California Cash Payments from the remaining Net Settlement Fund, consisting of two pro rata shares (2x) of the Remaining Fund for each Settlement Class Member residing in California at the time of the Data Security Incident. *Id.* Settlement Class Members claiming the California Cash Payment must attest that they resided in California on June 30, 2022. *Id.* For the avoidance of doubt, the intention of awarding two pro rata shares to those validly claiming the California Cash Payments is to provide those approved claimants with double the amount of the Pro Rata Cash Payment, in recognition of the potential value of the California statutory claims alleged in this Litigation. *Id.*

(b) Cash Compensation (Pro Rata Cash Payment): After the payment of Out-of-Pocket Loss Claims, the Settlement Administrator will issue Pro Rata Cash Payments of a single pro rata share of the remaining Net Settlement Fund for each Settlement Class Member who did not reside in California at the time of the Data Security Incident. *Id.*

3. **Residual Funds.** If any monies remain in the Net Settlement Fund (due to returned or uncashed checks or otherwise) more than one hundred twenty (120) calendar days after the distribution of Settlement Payments described above, and it is not economically feasible to distribute the residual funds to class members who have filed claims and whose claims have been allowed, then the Settling Parties will distribute the residual funds to cy pres recipient the Alzheimer's Association. SA ¶3.8.

4. **Business Practices Changes.** Defendant represented that, since the Data Security Incident and in part as a result of the Litigation, it implemented certain Business Practice Changes that resulted in a new incremental spend of more than \$2 million. SA ¶3.9. In addition, Defendant represents that, in part as a result of the Litigation, it maintained those Business Practice Changes.

Id. As part of the Settlement, Defendant will prepare for Co-Lead Class Counsel a confidential statement subject to the protective order in the Litigation that outlines the Business Practice Changes already implemented, which can be submitted to the Court, in camera, if required. *Id.*

5. **Release.** As set forth in more detail in the Settlement Agreement, upon the date the Judgment becomes Final, each Settlement Class Member, including Class Representatives, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against all Released Persons. SA ¶9.1. Further, upon the date the Judgment becomes Final, and to the fullest extent permitted by law, each Settlement Class Member, including Class Representatives, shall, either directly, indirectly, representatively, as a member of or on behalf of the general public or in any capacity, be permanently barred and enjoined from commencing, prosecuting, or participating in any recovery in any action in this or any other forum (other than participation in the settlement as provided herein) in which any of the Released Claims is asserted. *Id.* Defendant shall release and discharge Settlement Class Members, Plaintiffs, and Class Counsel from any claims that arise out of or relate in any way to the institution, prosecution, or settlement of the Litigation, except for claims relating to the enforcement of the Settlement, and for the submission of false or fraudulent claims for settlement benefits. *Id.*

C. The Notice and Claims Process

1. Settlement Class Notice

The Settlement Administrator shall be responsible for implementing and executing the Notice Plan. Within seven calendar days after the entry of the Preliminary Approval Order, Defendant shall provide to the Settlement Administrator a list of the Settlement Class Members that includes full names, current addresses (to the extent available), and email addresses (to the

extent available) as reflected in Defendant's records. SA ¶6.1. Within thirty (30) calendar days after the Preliminary Approval Order is entered, the Settlement Administrator shall commence mailing via first-class U.S. mail or emailing to all Settlement Class Members for whom mailing addresses or email addresses are available, the Short Notice, and shall commence notice through a media campaign expected to reach approximately 88% of Settlement Class Members. *Id.* Any Settlement Class Member that does not file a timely and adequate objection as per the process laid out in the Settlement Agreement, waives the right to object or to be heard at the Final Approval Hearing and shall be forever barred from making any objection to the Settlement, unless otherwise ordered by the Court. SA ¶6.2.

2. Opt-Out Procedures

Each Person wishing to opt-out of the Settlement Class shall individually sign and timely submit written notice of such intent to the designated postal address established by the Settlement Administrator. SA ¶7.1. The written notice must clearly manifest a Person's intent to be excluded from the Settlement Class and this shall be determined by the Settlement Administrator. *Id.* Defendant may, in its sole discretion, terminate the Agreement if more than a specified number of Settlement Class Members submit valid and timely requests to exclude themselves from the Settlement, as agreed to by the Settling Parties in a separate writing that has been executed by them contemporaneously with the execution of the Agreement, and, if requested, submitted to the Court for in camera review. SA ¶7.4.

3. Objection Procedures

Each Settlement Class Member desiring to object to the Settlement Agreement or Class Counsel's Fee Application shall submit a timely written notice of his or her objection. SA ¶8.1. To be timely, written notice of an objection in the appropriate form must be sent to the Settlement

Administrator and received or postmarked no later than thirty (30) calendar days before the Claims Deadline, unless otherwise ordered by the Court. *Id.* Except upon a showing of good cause, or as otherwise allowed by the Court, any Settlement Class Member who fails to comply with the requirements for objecting shall waive and forfeit any and all rights he or she may have to appear separately and/or to object to the Settlement Agreement, and shall be bound by all the terms of the Settlement Agreement and by all proceedings, orders, and judgments in the Litigation. SA ¶8.2. A Settlement Class Member who files an objection waives the right to opt-out, and vice versa. SA ¶8.4.

4. Claims Process

The timing of the claims process is structured to ensure that all Settlement Class Members have adequate time to review the terms of the Settlement Agreement, make a claim or decide whether they would like to opt-out or object. SA ¶4. Settlement Class Members with Approved Claims shall be able to select from a variety of payment options, including Zelle, PayPal, Venmo, ACH, virtual pre-paid Mastercard, and/or paper check. *Id.* The Claim Form, attached to the Settlement Agreement as Exhibit A, is written in plain language to facilitate Settlement Class Members' ease in completing it. *Id.*

D. Attorneys' Fees and Expenses

Proposed Co-Lead Class Counsel shall submit a request to the Court for an award of reasonable attorneys' fees, expressed as a percentage of the Settlement Amount, and for an award of Plaintiffs' counsel's reasonable expenses and charges incurred in prosecuting and settling the Litigation. SA ¶10.1. If approved by the Court, such attorneys' fees and expenses will be paid by the Settlement Administrator from the Escrow Account at least ten calendar days after Defendant completes full payment of the Settlement Amount. SA ¶10.2.

IV. ARGUMENT

A. Legal Standards²

Approval of a proposed settlement is a two-step process. **First**, the court decides whether the proposed settlement is “within the range of possible approval,” *Fresco v. Auto Data Direct, Inc.*, 2007 WL 2330895, at *4 (S.D. Fla. May 14, 2007) (cleaned up),³ to decide “whether to direct notice . . . to the class, invite the class’s reaction, and schedule a final fairness hearing.”⁴ William B. Rubenstein, *Newberg on Class Actions* §13:10 (6th ed. 2024). **Second**, at the final approval hearing, the court decides if the settlement is fair, reasonable, and adequate. *Id.*

Under Rule 23(e)(1), the Court may direct notice to the class of a class action settlement upon determining that notice is justified because the Court concludes it is “more likely than not” to finally approve the settlement and certify a settlement class. *See* Fed. R. Civ. P. 23(e)(1)(B). Before finally approving a settlement, a court should consider whether (1) the class was adequately represented; (2) the settlement was negotiated at arm’s-length; (3) the relief is adequate, taking into account the costs, risks, and delay of trial and appeal; how the relief will be distributed; the terms governing attorneys’ fees; and any side agreements; and (4) whether settlement class members are treated equitably relative to each other. Fed. R. Civ. P. 23(e)(2)(A-D).

In assessing whether a settlement is fair, reasonable, and adequate, courts in this Circuit may also consider the so-called *Bennett* factors, which include: (1) the likelihood of success at

² In addition to its substantive review of the Settlement’s terms, the Court must have subject matter jurisdiction over this case. CAFA’s jurisdictional requirements are easily met here (minimal diversity, an amount in controversy exceeding \$5,000,000, and more than 100 putative class members). Moreover, CAFA’s home-state controversy exception does not apply because, based on available address information, less than one-third of the Settlement Class has a Florida address.

³ Unless otherwise noted, all emphasis is added and citations are omitted.

trial; (2) the range of possible recovery; (3) the point on or below the range of possible recovery at which a settlement is fair, adequate, and reasonable; (4) the complexity, expense, and duration of the litigation; (5) the substance and amount of opposition to the settlement; and (6) the stage of proceedings at which the settlement was achieved. *Bennett v. Behring Corp.*, 737 F.2d 982, 986 (11th Cir. 1984). In weighing these factors, the court’s “judgment is informed by the strong judicial policy favoring settlement as well as by the realization that compromise is the essence of settlement.” *Id.*

Settlement “has special importance in class actions with their notable uncertainty, difficulties of proof, and length. Settlements of complex cases contribute greatly to the efficient utilization of scarce judicial resources, and achieve the speedy resolution of justice.” *Turner v. Gen. Elec. Co.*, 2006 WL 2620275, at *2 (M.D. Fla. Sept. 13, 2006) (cleaned up). Additionally, it has long been held that “[p]ublic policy strongly favors the pretrial settlement of class action lawsuits.” *In re U.S. Oil & Gas Litig.*, 967 F.2d 489, 493 (11th Cir. 1992).

B. The Proposed Settlement Is Fair, Reasonable, and Adequate

1. The Class Was and Continues to Be Adequately Represented

Adequacy of representation is an issue traditionally considered in connection with class certification and involves two questions: “(1) whether plaintiffs’ counsel are qualified, experienced, and generally able to conduct the proposed litigation” and “(2) whether plaintiffs have interests antagonistic to those of the rest of the class.” *Ibrahim v. Acosta*, 326 F.R.D. 696, 701 (S.D. Fla. 2018) (cleaned up). Here, Plaintiffs have the same interests as other Settlement Class Members as they are asserting the same claims and share the same alleged injuries stemming from the Data Security Incident. Further, the record shows Proposed Co-Lead Class Counsel worked diligently to litigate the case and eventually bring this case to resolution through two

formal mediations. Joint Decl., ¶¶1-7. The Settling Parties ultimately came to an agreement in principle after the second mediation session, which was an arm’s-length, full-day mediation session conducted by Seth Aronson, Esq. of Phillips ADR. *Id.*, ¶7.

2. The Proposed Settlement Was Negotiated at Arm’s-Length

The Settlement resulted from arm’s-length negotiations between experienced Proposed Co-Lead Class Counsel with an understanding of the strengths and weaknesses of their respective positions in this lawsuit, assisted by Mr. Aronson. Joint Decl., ¶¶6-7. These circumstances weigh in favor of approval. *See, e.g., Poertner v. Gillette Co.*, 618 F. App’x 624, 630 (11th Cir. 2015) (concluding that a settlement achieved only after engaging in extensive arm’s-length negotiations moderated by an experienced mediator belies any suggestion of collusion); *In re Checking Acct. Overdraft Litig.*, 275 F.R.D. 654, 662 (S.D. Fla. 2011) (approving settlement where it “was reached in the absence of collusion, is the product of informed, good-faith, arms’-length negotiations between the parties and their capable and experienced counsel, and was reached with the assistance of a well-qualified and experienced mediator”); *Perez v. Asurion Corp.*, 501 F. Supp. 2d 1360, 1384 (S.D. Fla. 2007) (concluding that class settlement was not collusive in part because it was overseen by “an experienced and well-respected mediator”); *see also Manual for Complex Litig. (Third)* §30.42 (1995) (“A presumption of fairness, adequacy, and reasonableness may attach to a class settlement reached in arm’s-length negotiations between experienced, capable counsel after meaningful discovery.”).

Additionally, the Settling Parties spent significant time negotiating the terms of the final written Settlement Agreement that is now presented to the Court for approval. At all times, these negotiations were at arm’s-length. While courteous and professional, the negotiations were intense and hard-fought on all sides. *See* Joint Decl., ¶¶6-7.

Overlapping with this Rule 23(e)(2) factor is the sixth *Bennett* factor, the stage of the proceedings at which a settlement is achieved and “is evaluated to ensure that [p]laintiffs had access to sufficient information to adequately evaluate the merits of the case and weigh the benefits of settlement against further litigation.” *Lipuma v. Am. Express Co.*, 406 F. Supp. 2d 1298, 1324 (S.D. Fla. 2005). In addition, while “[e]arly settlements are favored” such that “vast formal discovery need not be taken,” *Saccoccio v. JP Morgan Chase Bank, N.A.*, 297 F.R.D. 683, 694 (S.D. Fla. 2014) (cleaned up), here, the Settling Parties engaged in significant document discovery to understand the strengths and weaknesses in the Litigation.

The Settling Parties settled before depositions were taken, and, thus at relatively early in the Litigation; however, the Settling Parties not only engaged in formal document discovery prior to mediation, they participated in informal pre-mediation discovery as well. Thus, the Settling Parties had sufficient information to adequately evaluate the merits of the case. Among the information shared through formal and pre-mediation discovery was class size and demographics, information regarding the technical aspects of the Data Security Incident, and Defendants’ liability and security enhancements. Additionally, Proposed Co-Lead Class Counsel relied on their experience presenting expert evidence and litigating the key legal issues in other major data breach cases to assist in evaluating the merits of this case. Joint Decl., ¶¶21-24. As recognized in other cases, “[i]nformation obtained from other cases may be used to assist in evaluating the merits of a proposed settlement of a different case.” *Lipuma*, 406 F. Supp. 2d at 1325. Accordingly, Plaintiffs had more than sufficient information available to weigh the benefits of Settlement against further Litigation. *See, e.g., Gonzalez v. TCR Sports Broad. Holding, LLP*, 2019 WL 2249941, at *5 (S.D. Fla. May 24, 2019) (“the early settlement reached between the parties and the extent to which the

parties were informed about the merits of their claims and defenses weighs in favor of approving the Settlement Agreement.”).

3. The Settlement Relief Is Fair, Reasonable, and Adequate

The next Rule 23(e)(2) factor considers the relief offered in the context of the costs, risks, and delay of further litigation. This factor overlaps with the first four *Bennett* factors identified above.

In terms of relief offered, the Settlement is as comprehensive as nearly any other data breach settlement on record, and the specific benefits compare favorably to what has been previously approved by federal district courts and affirmed by circuit courts of appeal, including a sizeable, \$5,000 cap on reimbursement for Out-of-Pocket Losses; Pro Rata Cash Payments to residents of California and to those residents outside of California; disbursement of Residual Funds to a cy pres fund and Defendant’s commitment to make meaningful Business Practice Changes. For example, the relief made available under the Settlement compares very favorably to the relief made available to victims of large data breaches in common fund cases that have previously received approval and provides for a significantly greater recovery on a per-person basis. *See, e.g., In re Equifax Inc. Customer Data Sec. Breach Litig.*, 2020 WL 256132, at *2 (N.D. Ga. Mar. 17, 2020), *aff’d in part, rev’d in part on other grounds*, 999 F.d 1247 (11th Cir. 2021) (describing settlement benefits made available from \$380.5 million fund on behalf of 147 million class members); *In re Premiera Blue Cross Customer Data Sec. Breach Litig.*, 2019 WL 3410382, at *23-24 (D. Or. July 29, 2019) (describing settlement benefits made available from \$32 million fund on behalf of 11 million class members); *In re Anthem, Inc. Data Breach Litig.*, 327 F.R.D. 299, 318 (N.D. Cal. 2018) (approving \$115 million settlement on behalf of more than 79 million class members). The Settlement Fund also compares favorably to the relief approved in data breach

cases with classes more similar in size to this one. *See, e.g., In re Mednax Servs., Inc., Customer Data Sec. Breach Litig.*, No. 21-MD-02994-RAR (S.D. Fla. Oct. 5, 2024), ECF 328 (Ruiz, J.) (approving \$6 million settlement on behalf of 2,712,790 class members); *In Re Lincare Holdings Inc. Data Breach Litig.*, No. 8:22-cv-1472-TPB-AAS (M.D. Fla. June 24, 2024), ECF 126 (finally approving \$7,250,000 settlement on behalf of 2.9 million class members); *Sherwood v. Horizon Actuarial*, No. 1:22-cv-01495-ELR (N.D. Ga. Apr. 2, 2024), ECF 94 (finally approving at \$8,733.446 common fund settlement for 4,386,969 class members); *Heath v. Ins. Techs. Corp.*, No. 3:21-cv-01444-N (N.D. Tex. Jan. 4, 2023), ECF 52 (\$11,000,000 common fund settlement for 4.6 million class members finally approved).

Proposed Co-Lead Class Counsel, a group with extensive experience in leading major data breach class actions, believe that the relief is fair, reasonable, adequate, and superior to many comparable settlements on record. *See* Joint Decl., ¶¶21-24. The Court may rely upon such experienced counsel's judgment in assessing the fairness of the Settlement. *See, e.g., Nelson v. Mead Johnson & Johnson Co.*, 484 F. App'x 429, 434 (11th Cir. 2012) ("Absent fraud, collusion, or the like, the district court should be hesitant to substitute its own judgment for that of counsel.") (cleaned up).

a. The Risks, Costs, and Delay of Continued Litigation

While Plaintiffs are confident in the merits of their claims, they also understand that Defendant will assert a number of potentially case-dispositive defenses and are pragmatic in their awareness of the various defenses available to Defendant, as well as the risks inherent to continued litigation. Defendant has consistently denied the allegations raised by the Plaintiffs and made clear at the outset that they would vigorously defend the case (as evidenced by the motion to dismiss,

ECF 48). The Settlement Agreement avoids these uncertainties and provides the Settlement Class with meaningful and certain relief.

Due at least in part to their cutting-edge nature and the rapidly evolving law, class actions can involve some level of risk, expense, and complexity, which is one reason that judicial policy so strongly favors resolving class actions through settlement. *See In re U.S. Oil & Gas Litig.*, 967 F.2d at 493. Should this litigation continue, class certification is a significant hurdle that introduces additional complexities, including the potential for denial of certification. *See, e.g., Wilson v. EverBank*, 2016 WL 457011, at *8 (S.D. Fla. Feb. 3, 2016) (Bloom, J.) (“Plaintiffs might have recovered nothing for themselves or the class had they proceeded with litigation. Plaintiffs would have faced motions for class certification and for summary judgment, and possibly a lengthy trial and an appeal. Claims based on similar facts and the same or legal theories as those advanced here have met with mixed results in courts across the country, on both dispositive motions and class certification.”). A settlement today not only avoids the risks of continued litigation, but it also eliminates the risk that the Court would not certify the class or certification might not be upheld on appeal, and it also provides benefits to Settlement Class Members of the type designed to address the common repercussions which arise following a data breach.

Thus, the costs and risks of trial and appeal support a finding that this Court will likely approve the Settlement.

b. The Method of Distributing Relief Is Effective

The settlement distribution process, developed with Proposed Co-Lead Class Counsel’s knowledge and experience overseeing the administration of dozens of data breach settlements, will be efficient and effective. Settlement Class Members can easily file claims for Out-of-Pocket

Losses and Pro Rata Cash Payments by submitting the straightforward Claim Form. SA ¶¶3.2-3.3.

Documentation requirements are not onerous and are only required for Out-of-Pocket Losses. *Id.*

**c. The Terms Relating to Attorneys' Fees and Expenses
are Reasonable**

Proposed Co-Lead Class Counsel will separately move for attorneys' fees and expenses and seek no more than one-third (1/3) of the Settlement Amount as attorneys' fees. SA ¶10.1. In addition, Proposed Co-Lead Class Counsel will seek an award of their litigation expenses and charges. *Id.* The fees and expenses shall be paid from the Escrow Account at least ten (10) calendar days after Defendant completes full payment of the Settlement Amount. SA ¶10.2. "Although there is no hard and fast rule mandating a certain percentage of a common fund which may be awarded as a fee, an award of one-third of the common fund is consistent with the trend in this Circuit." *Gonzalez*, 2019 WL 2249941, at *6 (cleaned up) (citing cases); *see also Wolff v. Cash 4 Titles*, 2012 WL 5290155, at *5-6 (S.D. Fla. Sept. 26, 2012) ("The average percentage award in the Eleventh Circuit mirrors that of awards nationwide—roughly one-third"); Theodore Eisenberg, *et al.*, *Attorneys' Fees in Class Actions: 2009-201*, 92 N.Y.U. L. REV. 937, 951 (2017) (empirical study showing the median award in the 11th Circuit is 33%).

While Proposed Co-Lead Class Counsel will provide a more thorough analysis of the reasonableness of its forthcoming motion for attorneys' fees and expenses, at this stage, the Court can conclude that it is likely to approve the Settlement for purposes of sending notice to the class, even if it has not yet made a final determination as to Attorneys' Fees and Expenses, where the fees to be sought fall within the range of fees previously approved by courts in the Eleventh Circuit, including this Court.

4. Agreements Required to be Identified by Rule 23(e)(3)

Under Rule 23(e)(3), “[t]he parties seeking approval must file a statement identifying any agreement made in connection with the proposal.” There is no agreement between the Settling Parties, except as set forth in the Settlement Agreement, including (but not limited to) the separate writing referenced in Paragraph 7.4 of the Settlement Agreement, which the Parties are prepared to submit to the Court for an *in camera* review.

5. Settlement Class Members are Treated Equitably Relative to Each Other

The last requirement under Rule 23(e) is that the Settlement “treats class members equitably relative to each other.” Fed. R. Civ. P. 23(e)(2)(D). Here, the Settlement treats all Settlement Class Members equitably relative to one another because all are eligible to receive reimbursement based on Out-of-Pocket losses and Pro Rata Cash Payments. Joint Decl., ¶¶7-11. More specifically, all California Settlement Class members, whose claims are of higher value than non-California Settlement Class members due to the availability of statutory damages under the California Consumer Privacy Act, Cal. Civ. Code §1798.100, *et seq.*, and California’s Confidentiality of Medical Information Act, Cal. Civ. Code §56, *et seq.*, are eligible for the same 2x pro rata share from the Settlement Fund, while all non-California Settlement Class members are entitled to the same 1x pro rata share from the Settlement Fund. *See, e.g., Carter v. Vivendi Ticketing US LLC*, 2023 WL 8153712, at *11 (C.D. Cal. Oct. 30, 2023) (granting final approval in data breach settlement and noting, “[t]he Settlement also treats California sub-class members differently than class members from other states based on their claims that provide for statutory damages. This distinction is also reasonable. The release is also the same for all class members. The Court finds that the Settlement treats class members equitably.”); *Hashemi v. Bosley, Inc.*,

2022 WL 2155117, at *6 (C.D. Cal. Feb. 22, 2022) (granting preliminary approval in data breach settlement where California class members received extra payment for statutory claims).

* * *

Accordingly, the Settlement satisfies each of the Rule 23(e)(2) and *Bennett* factors⁴ and is fair, reasonable, and adequate.

C. Certification of the Settlement Class Is Appropriate

The second requirement in Rule 23(e)(1) for issuance of notice to the class is a finding that the Court will “likely be able to . . . certify the class for purposes of judgment” on the proposed settlement. Fed. R. Civ. P. 23(e)(1), advisory committee note. Here, the Settlement Class meets the requirements for certification under Rule 23(b)(3), so the Court should conclude that issuing notice is justified.

“A class may be certified solely for purposes of settlement where a settlement is reached before a litigated determination of the class certification issue.” *Lipuma*, 406 F. Supp. 2d at 1313-14 (cleaned up). Class certification is proper if the proposed class, proposed class representatives, and class counsel satisfy the numerosity, commonality, typicality, and adequacy of representation requirements of Rule 23(a). Fed. R. Civ. P. 23(a)(1)–(4); *see also Fabricant v. Sears Roebuck*, 202 F.R.D. 310, 313 (S.D. Fla. 2001). Additionally, where (as in this case) certification is sought under Rule 23(b)(3), Plaintiffs must demonstrate that common questions of law or fact predominate over individual issues and that a class action is superior to other methods of adjudicating the claims. Fed. R. Civ. P. 23(b)(3); *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 615-16 (1997). District

⁴ The fifth *Bennett* factor, the substance and amount of opposition to the Settlement, is inapplicable at this stage as notice of the Settlement, informing the Settlement Class of the opportunity to object, has not yet issued. This factor will be addressed at the final approval stage.

courts are given broad discretion to determine whether certification of a class action lawsuit is appropriate. *Walco Invs., Inc. v. Thenen*, 168 F.R.D. 315, 323 (S.D. Fla. 1996).

Because this case meets all of the requirements of Rule 23(a) and (b)(3), as set forth below, certification is appropriate.

1. The Settlement Class Meets the Requirements of Rules 23(a) and (b)(3)

a. Numerosity

Numerosity requires “the class [be] so numerous that joinder of all members is impractical.” Fed. R. Civ. P. 23(a)(1). “While ‘mere allegations of numerosity are insufficient,’ [Fed. R. Civ. P.] 23(a)(1) imposes a ‘generally low hurdle,’ and ‘a plaintiff need not show the precise number of members in the class.’” *Manno v. Healthcare Revenue Recovery Grp., LLC*, 289 F.R.D. 674, 684 (S.D. Fla. 2013). Courts require only that plaintiffs provide “some evidence of the number of members in the purported class, or at least a reasonable estimate of that number.” *Leszczynski v. Allianz Ins.*, 176 F.R.D. 659, 669 (S.D. Fla. 1997). Here, Defendant identified approximately 3.9 million individuals affected by the Data Security Incident. Numerosity is thus easily satisfied.

b. Commonality

“The threshold for commonality under Rule 23(a)(2) is not high.” *In re Checking*, 275 F.R.D. at 659. “[C]ommonality requires that there be at least one issue whose resolution will affect all or a significant number of the putative class members.” *Williams v. Mohawk Indus., Inc.*, 568 F.3d 1350, 1355 (11th Cir. 2009) (cleaned up).

Here, the commonality requirement of Rule 23(a)(2) is readily satisfied because Settlement Class Members are joined by the common questions of law and fact that arise from the same event — the Data Security Incident. As Plaintiffs allege, the critical issues posed by this action include:

(1) whether and to what extent Defendant had a duty to protect and safeguard the Sensitive Information of Plaintiffs and the Settlement Class Members; (2) whether Defendant breached that duty to Plaintiffs and the Settlement Class Members by failing to implement and maintain data security procedures and practices commensurate with the nature and scope of the Sensitive Information compromised in the Data Security Incident; (3) whether Plaintiffs and Class Members are injured as a result of the Data Security Incident and entitled to damages and/or injunctive relief. ECF 44 ¶383.

These common issues aggregate toward the singular conduct of Defendant with respect to the Data Security Incident. *See, e.g., Savidge v. Pharm-Save, Inc.*, 727 F. Supp. 3d 661, 698 (W.D. Ky. 2024) (“there exist common questions of whether Pharm-Save’s conduct was negligent or a contractual breach and whether it caused a data security breach that resulted in theft of employees’ data and reasonably prompted employees to take mitigation measures or expend time to deal with the fallout of the breach. These questions all arise from the 2016 data breach.”) (cleaned up); *In re Brinker Data Incident Litig.*, 2021 WL 1405508, at *8 (M.D. Fla. Apr. 14, 2021) (finding “several questions that are common to the class and capable of classwide resolution, including whether Brinker had a duty to protect customer data, whether Brinker knew or should have known its data systems were susceptible, and whether Brinker failed to implement adequate data security measures to protect customers’ data. . . . In particular, the final question is common to every claim in both the proposed Nationwide Class and the proposed California Statewide Class.”).

c. Typicality

The next prerequisite to certification, typicality, “measures whether a sufficient nexus exists between the claims of the named representative and those of the class at large.” *Hines v. Widnall*, 334 F.3d 1253, 1256 (11th Cir. 2003); Fed. R. Civ. P. 23(a)(3). A class representative’s

claims are typical of the claims of the class if they “arise from the same event or pattern or practice and are based on the same legal theory.” *Kornberg v. Carnival Cruise Lines, Inc.*, 741 F.2d 1332, 1337 (11th Cir. 1984); *see also Cooper v. Southern Co.*, 390 F.3d 695, 714 (11th Cir. 2004) (“Neither the typicality nor the commonality requirement mandates that all putative class members share identical claims, and . . . factual differences among the claims of the putative class members do not defeat certification.”) (cleaned up). Simply put, when the same course of conduct is directed at both the named plaintiffs and the members of the proposed class, the typicality requirement is met. *Kennedy v. Tallant*, 710 F.2d 711, 717 (11th Cir. 1983).

Typicality is met here. Plaintiffs’ and Settlement Class Members’ claims all arise from Defendant’s alleged failure to properly protect their Sensitive Information. Both Plaintiffs and Settlement Class Members allege to have been injured in the same way – by the disclosure of their PII and PHI. This satisfies the typicality requirement. *See, e.g., Savidge*, 727 F. Supp. 3d at 700 (noting that, “in several data breach cases, courts have found the typicality requirement satisfied.”) (citing *In re Sonic Corp.*, 2021 WL 6694843, at *3 (6th Cir. Aug. 24, 2021) (noting that the alleged elements of the negligence claim “all arise from common questions,” despite individual damages questions)); *Brinker*, 2021 WL 1405508, at *8 (finding typicality met where “all Plaintiffs’ injuries arise out of the same series of events, the Data Breach[,]” “all allege the same claims . . . , and like each other class member they must show that Brinker was negligent . . . and that Brinker’s conduct caused their damages, which are alleged to be similar. Because the only difference between Named Plaintiffs and putative class members is the amount of damages, typicality is satisfied.”).

d. Adequacy

Rule 23(a)(4) requires that the class representative “not possess interests which are antagonistic to the interests of the class.” 1 *Newberg on Class Actions* §3:54. Additionally, the

class representatives’ counsel “must be qualified, experienced, and generally able to conduct the litigation.” *Id.*; *Amchem*, 521 U.S. at 625–26. As noted above, Plaintiffs are members of the Settlement Class and do not possess any interests antagonistic to the Settlement Class. Joint Decl., ¶32. They each allege they provided their Sensitive Information to Defendant and that they were harmed because of the Data Security Incident. Additionally, Plaintiffs have vigorously prosecuted this case for the benefit of all Settlement Class Members by filing the underlying action, reviewing pleadings, conferring with Proposed Co-Lead Class Counsel, and providing input in crafting and approving the Settlement. *Id.*

In addition, Proposed Co-Lead Class Counsel are qualified to represent the Settlement Class. They have extensive experience in prosecuting data breach cases, having represented data breach victims in numerous cases across the country. Joint Decl., ¶¶21-23. In this case, they have spent considerable time investigating Settlement Class Members’ injuries and claims, actively litigating the case through motion practice and formal discovery, and negotiating a well-informed Settlement on behalf of the Settlement Class, after two rounds of mediation. Accordingly, the Rule 23(a) prerequisites have been met.

e. Predominance

Rule 23(b)(3)’s predominance requirement focuses primarily on whether a defendant’s liability is common enough to be resolved on a class basis, *see Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 349-60 (2011), and whether the proposed class is “sufficiently cohesive to warrant adjudication by representation,” *Amchem*, 521 U.S. at 623. Common issues of fact and law predominate in a case if they have “a direct impact on every class member’s effort to establish liability and on every class member’s entitlement to injunctive and monetary relief.” *Ingram v. Coca-Cola Co.*, 200 F.R.D. 685, 699 (N.D. Ga. 2001).

In this case, the key predominating questions are whether Defendant had a duty to exercise reasonable care in safeguarding, securing, and protecting Plaintiffs' and Settlement Class Members' Sensitive Information and whether Defendant breached that duty. The many common questions of fact and law that arise from Defendant's conduct predominate over any individualized issues. Other courts have recognized that these types of common issues arising from a data breach predominate over individualized issues. *See, e.g., Savidge*, 727 F. Supp. 3d at 704 (certifying a negligence and breach of implied contract class in a data breach case and concluding, "questions relating to damages and even causation . . . are not so numerous or complicated as to overwhelm the common questions relating to liability.") (cleaned up); *In re Anthem, Inc. Data Breach Litig.*, 327 F.R.D. at 312-15 (finding predominance was satisfied because "[p]laintiffs' case for liability depend[ed], first and foremost, on whether [the defendant] used reasonable data security to protect [p]laintiffs' personal information," such that "the claims rise or fall on whether [the defendant] properly secured the stolen personal information," and that these issues predominated over "potential individual issues based on state-law variations"); *Hapka v. CareCentrix, Inc.*, 2018 WL 1871449, at *2 (D. Kan. Feb. 15, 2018) (finding predominance was satisfied in a data breach case, stating "[t]he many common questions of fact and law that arise from the E-mail Security Incident and CareCentrix's alleged conduct predominate over any individualized issues"); *In re Home Depot, Inc., Customer Data Sec. Breach Litig.*, 2016 WL 6902351, at *2 (N.D. Ga. Aug. 23, 2016) (finding common predominating questions included whether Home Depot failed to reasonably protect class members' personal and financial information, whether it had a legal duty to do so, and whether it failed to timely notify class members of the data breach).

Additionally, because the claims are being certified for purposes of settlement, there are no issues with manageability, and resolution of thousands of claims in one action is far superior to

individual lawsuits. *Amchem*, 521 U.S. at 620 (“Confronted with a request for settlement-only class certification, a district court need not inquire whether the case, if tried, would present intractable management problems . . . for the proposal is that there be no trial.”). Accordingly, the common questions of fact and law that arise from Defendant’s conduct predominate over any individualized issues.

f. Superiority

Finally, a class action is superior to other methods available to fairly, adequately, and efficiently resolve the claims of the Settlement Class. To determine if superiority requirements are met for certification of a settlement class, courts consider: (1) the settlement class members’ interests in individually controlling the prosecution or defense of separate actions; (2) the extent and nature of any litigation concerning the controversy already begun by or against class members; and (3) the desirability or undesirability of concentrating the litigation of the claims in the particular forum. *See* Fed. R. Civ. P. 23(b)(3). At its most basic, “[t]he inquiry into whether the class action is the superior method for a particular case focuses on ‘increased efficiency.’” *Agan v. Katzman & Korr, P.A.*, 222 F.R.D. 692, 700 (S.D. Fla. 2004) (quoting *Sikes v. Teleline, Inc.*, 281 F.3d 1350, 1359 (11th Cir. 2002)).

Proceeding as a class action in this case is superior to other means of adjudication. There is no indication in this case that any Settlement Class Member wishes to litigate their claims on an individual basis. And with the high cost of litigating a case like this — requiring expert investigation and testimony to prove how and why the data breach occurred — almost certainly swamping individual damages, individualized litigation is impracticable. *See In re Checking Acct. Overdraft Litig.*, 286 F.R.D. 645, 659 (S.D. Fla. 2012) (“The class action fills an essential role

when the plaintiffs would not have the incentive or resources to prosecute relatively small claims in individual suits, leaving the defendant free from legal accountability.”).

Additionally, this Court is a desirable forum for this Litigation. It is where the cases were filed and the jurisdiction where Defendant has its principal place of business and headquarters. Defendant also regularly conducts substantial business in this District. Accordingly, resolution of this case through a class action settlement in this Court will achieve significant economies for the Settling Parties, the proposed settlement class, and the court, satisfying the superiority requirement. The Court respectfully should certify the Settlement Class, as the superiority requirement, along with all other requirements Rule 23(a) and (b) are satisfied.⁵

D. The Proposed Class Notice Satisfies Rule 23

Under Rule 23(e)(1)(B), “[t]he court must direct notice in a reasonable manner to all class members who would be bound by the [settlement] proposal.” Likewise, in directing notice “to a class proposed to be certified for purposes of settlement under Rule 23(b)(3)—the court must direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort.” Fed. R. Civ. P. 23(c)(2)(B).

⁵ One additional class certification requirement is not mentioned in Rule 23, but is implicit in the analysis, and that is that Plaintiffs must demonstrate that the class is “adequately defined and clearly ascertainable.” *Bussey v. Macon Cnty. Greyhound Park, Inc.*, 562 F. App’x 782, 787 (11th Cir. 2014). This requirement asks (a) whether members of the proposed class “can be ascertained by reference to objective criteria”; and (b) whether analysis of that objective criteria is “administratively feasible,” such that “identifying class members [would be] a manageable process that does not require much, if any, individual inquiry.” *Id.* (cleaned up); *see also Cherry v. Domestic Corp.*, 986 F.3d 1296, 1304 (11th Cir. 2021) (a class is ascertainable “if it is adequately defined such that its membership is capable of determination.”). Plaintiffs can rely on a defendant’s records, but the records should be “useful for identification purposes” and identification should be “administratively feasible.” *Karhu v. Vital Pharms., Inc.*, 621 F. App’x 945, 948 (11th Cir. 2015). Here, the Settlement Class is defined as those individuals whose PII or PHI was impacted in the Data Breach at ILS, which is easily defined and ascertained through ILS’s own records.

The Notice Plan satisfies the requirements of Rule 23 and due process and is designed to be the best practicable and to meet all the criteria set forth by the *Manual for Complex Litigation*. Here, Short Notice by direct U.S. Mail or email (the “Short Notice”), will be mailed or emailed to Settlement Class Members for whom mailing or email addresses are available. *See* Joint Decl., Ex. A (Declaration of Scott M. Fenwick of Kroll Settlement Administration LLC in Connection with Preliminary Approval of Settlement) (“Fenwick Decl.”), ¶¶7-15. Additionally, for those Settlement Class Members for whom a mailing or email address is not available, the Settlement Administrator will conduct a media campaign to reach at least 88% of the Settlement Class. *Id.*, ¶¶16-18.

A customary long form notice with more detail will also be provided on the settlement website (“Long Notice”). SA ¶5.2. Additionally, the Settlement Administrator will establish and maintain a dedicated settlement website that will be updated throughout the claims period with the Long Notice and Claim Form approved by the Court, as well as the Settlement Agreement. *Id.* A toll-free help line, post office box, and e-mail address will be maintained where Settlement Class Members may submit hard copy Claim Forms, exclusion requests, objections and other case correspondence from Settlement Class Members. *See* Fenwick Decl., ¶¶25-27.

The notices are clear and straightforward. They define the Settlement Class; clearly describe the options available to Settlement Class Members and the deadlines for taking action; describe the essential terms of the settlement and apprise the Settlement Class of the pendency of the case; the terms of the Settlement; Proposed Co-Lead Class Counsel’s request for an award of attorney’s fees, costs, and expenses; Settlement Class Members’ rights to opt-out of or object to the Settlement; describe the date, time, and place of the Final Fairness Hearing; and prominently display the address and phone number of Proposed Co-Lead Class Counsel. Thus, the notices satisfy the specific requirements of Federal Rule of Civil Procedure 23(c)(2)(B), sufficiently

informing Settlement Class Members of the terms of the proposed Settlement and their available options and are the best notices that are practicable under the circumstances.

E. Plaintiffs Should be Appointed as Class Representatives

The Court should also preliminarily appoint Plaintiffs as Class Representatives. All Plaintiffs diligently advocated on behalf of the Class and prosecuted this action alongside Proposed Co-Lead Class Counsel. They were at all times available to Proposed Co-Lead Class Counsel. Indeed, the combined efforts of Plaintiffs and Proposed Co-Lead Class Counsel ultimately led to the proposed Settlement and the benefits it makes available to the Class. Joint Decl. ¶32.

F. Plaintiffs' Proposed Co-Lead Class Counsel Should be Appointed as Class Counsel

In appointing class counsel, courts must consider (1) counsel's work in identifying or investigating claims; (2) counsel's experience in handling the types of claims asserted; (3) counsel's knowledge of the applicable law; and (4) the resources counsel will commit to representing the class. Fed. R. Civ. P. 23(g)(1)(A). Proposed Co-Lead Class counsel have worked cooperatively and efficiently and committed substantial time and resources to this case. This work has included: (1) investigating the Data Security Incident; (2) researching and evaluating the appropriate legal claims to assert; (3) interviewing potential class representatives about their experiences; (4) preparing and filing a class action complaint; (5) opposing the motion to dismiss, (6) opposing the motion to stay discovery; (7) engaging in both formal and informal discovery with Defendant; (8) preparing for and participating in two mediation sessions and subsequent settlement discussions; and (9) negotiating the proposed settlement, preparing the settlement documentation, and moving for preliminary approval. Because Proposed Co-Lead Class Counsel have demonstrated their commitment to litigating these claims, the Court should appoint Stuart A.

Davidson of Robbins Geller Rudman & Dowd LLP, Alexandra M. Honeycutt of Milberg Coleman Bryson Phillips Grossman PLLC, and John A. Yanchunis of Morgan & Morgan as Class Counsel.

V. CONCLUSION

Plaintiffs have negotiated a fair, adequate, and reasonable settlement that guarantees Settlement Class Members significant relief in the form of reimbursement for Out-of-Pocket losses, as well as Pro Rata Cash Payment awards for California and non-California residents, and Defendant's commitment to make meaningful Business Practice Changes. For these and the above reasons, Plaintiffs respectfully requests this Court grant their Motion for Preliminary Approval of the Class Action Settlement.

DATED: March 28, 2025

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Members of Plaintiffs' Executive Committee

** Pro hac vice granted*

EXHIBIT 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Master File No. 1:23-cv-21060-Williams

In re INDEPENDENT LIVING SYSTEMS)	<u>CLASS ACTION</u>
DATA BREACH LITIGATION)	
_____)	
This Document Relates To:)	
)	
ALL ACTIONS.)	
_____)	

CLASS ACTION SETTLEMENT AGREEMENT

Master File No. 1:23-cv-21060-Williams

This Settlement Agreement, dated as of March 21, 2025, is made and entered into by and among the following **Settling Parties** (defined below): (i) David Asato, Katrina Berres, Ge Xiao Fang, Melinda Geleng, Mathew George, Maria Gomez, Dimitri Gutierrez, Chelsea Jensen, Rhianna McMullen, David Perez, Mark Salzano, Ernest Scoggan, and Ryan Smith (“**Plaintiffs**” or “**Class Representatives**”), individually and on behalf of the **Settlement Class** (defined below), by and through their counsel of record, Stuart A. Davidson of Robbins Geller Rudman & Dowd LLP, Alexandra M. Honeycutt of Milberg Coleman Bryson Phillips Grossman PLLC, and John A. Yanchunis of Morgan & Morgan (“**Proposed Co-Lead Class Counsel**”) on the one hand; and (ii) Independent Living Systems LLC (“**ILS**” or “**Defendant**”), by and through its counsel of record, Gregory T. Parks, Brian M. Ercole, and Melissa M. Coates of Morgan, Lewis & Bockius LLP (“**Defendant’s Counsel**”) on the other hand. This Settlement Agreement is subject to Court approval and is intended by the Settling Parties to fully, finally, and forever resolve, discharge, and settle the **Litigation** (defined below) and **Released Claims** (defined below), upon and subject to the terms and conditions herein.

RECITALS

WHEREAS, ILS is a leading provider of clinical and third-party administrative services to healthcare organizations across the country, is a Florida-based limited liability company, and is registered to do business in Florida, with its principal place of business in Florida;

WHEREAS, in the course and scope of providing its services to healthcare organizations, ILS receives the personal identifiable information (“PII”) and personal health information (“PHI”) for individuals who are members of health plans to which ILS provides services;

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WHEREAS, this PII and PHI may include an individual's name, Social Security number, taxpayer identification number, medical information, and/or health insurance information, and is stored on ILS's computer systems;

WHEREAS, on July 5, 2022, ILS became aware of a **Data Security Incident** (defined below) carried out by a malicious third-party who accessed and acquired files on ILS's computer systems, and who made certain files inaccessible to ILS;

WHEREAS, after investigating, ILS determined that the Data Security Incident may have compromised certain **Sensitive Information** (defined below) belonging to individuals stored on ILS's computer systems;

WHEREAS, upon becoming aware of the Data Security Incident, ILS immediately acted to contain it and commenced the process of determining whether individual notices would be required or appropriate;

WHEREAS, ILS sent notice of the Data Security Incident in or around March 14, 2023 to those individuals whose information may have been compromised in the Data Security Incident, offered complimentary identity theft and credit monitoring services, and provided resources for additional information;

WHEREAS, the first putative class action complaint was filed against ILS on March 17, 2023. *See Geleng v. Independent Living Sys., LLC*, No. 1:23-cv-21060 (S.D. Fla.), ECF 1. The case was assigned to the Honorable Kathleen M. Williams, United States District Court Judge, and Magistrate Judge Lisette M. Reid. *See* ECF 2. Several other related putative class actions were also filed against ILS (collectively, the "**Civil Actions**");

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WHEREAS, the Civil Actions asserted claims individually and on behalf of a putative nationwide class arising out of the Data Security Incident;

WHEREAS, on July 31, 2023, the Civil Actions were consolidated before Judge Williams in the United States District Court for the Southern District of Florida under a single civil action number, captioned Master File No. 1:23-cv-21060-Williams;

WHEREAS, on November 13, 2023, Plaintiffs filed their operative Consolidated Class Action Complaint [ECF 44], alleging six claims on behalf of a putative Nationwide Class (negligence, negligence per se, breach of contract, breach of implied contract, unjust enrichment, and violation of the Florida Deceptive and Unfair Trade Practices Act (“FDUTPA”), Fla. Stat. §501.201, et seq.), as well as thirteen counts on behalf of alternative State Classes under the consumer protection laws of those states, including the California Consumer Privacy Act (“CCPA”) and California’s Confidentiality of Medical Information Act (“CMIA”);

WHEREAS, ILS moved to dismiss the Consolidated Class Action, which was pending at the time of the Settling Parties’ settlement;

WHEREAS, ILS disputes the claims and allegations in the Civil Actions filed against it, disputes any and all liability or wrongdoing of any kind to the Class Representatives, the Settlement Class, and any other individuals or putative class members described in the pleadings, and denies any violation of law whatsoever;

WHEREAS, the Settling Parties have concluded that further litigation would be protracted and expensive, have considered the uncertainty and risks inherent in litigation, and have determined that it is desirable to effectuate a full and final settlement of the claims asserted in the

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above-referenced actions on the terms set forth below to avoid the associated burdens, risks, uncertainty, and extensive costs;

WHEREAS, the Settling Parties engaged in formal discovery, as well as informal pre-mediation discovery, and ILS provided Proposed Co-Lead Class Counsel with specific requested factual information related to class size, liability, and security enhancements that provided a sound foundation for negotiations;

WHEREAS on November 6, 2024, the Settling Parties engaged in their first attempt at mediation through an arm's-length, full-day remote mediation session conducted by Seth Aronson, Esq. of Phillips ADR, a respected and recognized neutral mediator who has substantial experience mediating data privacy class actions. The Settling Parties made progress during the first mediation, but no settlement was reached at that time;

WHEREAS, on December 11, 2024, the Settling Parties engaged in their second attempt at mediation before Mr. Aronson — which was an arm's-length, full-day mediation session conducted in person;

WHEREAS, at the end of the second full-day of mediation, Mr. Aronson made a mediator's proposal and the Settling Parties reached an agreement in principle to resolve the Litigation as outlined herein;

WHEREAS, ILS denies any wrongdoing whatsoever, and this Agreement shall in no event be construed or deemed to be evidence of or an admission or concession on the part of ILS with respect to the legitimacy, merit, or validity of any claim of any fault, liability, wrongdoing or damage whatsoever, any infirmity in the defenses that ILS has asserted or would assert, or the legitimacy, merit, or validity of the requirements of Federal Rule of Civil Procedure 23 and

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whether the Class Representatives satisfy those requirements. To the contrary, ILS denies that the Class Representatives or any class members have suffered damages sufficient to support a cause of action and denies that it would be possible or feasible to certify a class other than for settlement purposes;

WHEREAS, based on their substantial investigation, formal discovery, and informal exchange of discovery as set forth above, and Counsel's substantial experience in data breach cases, Proposed Co-Lead Class Counsel has concluded that the terms and conditions of this **Settlement Agreement** (defined below) are fair, reasonable, and adequate to **Settlement Class Members** (defined below) and are in their best interests, and has agreed to settle the claims that were asserted or could have been asserted in the Litigation arising out of or relating to the Data Security Incident pursuant to the terms and provisions of this Settlement Agreement after considering: (a) the substantial benefits that Settlement Class Members will receive from the Settlement, (b) the uncertain outcome and attendant risks of litigation, (c) the delays inherent in litigation, and (d) the desirability of permitting the settlement of this litigation to be consummated as provided by the terms of this Settlement Agreement; and

WHEREAS, pursuant to these terms, which are set forth fully below, this Settlement Agreement provides for the resolution of all claims and causes of action asserted, or that could have been asserted, in the Civil Actions against ILS and the **Released Persons** (defined below) arising out of or relating to the Data Security Incident or the Litigation, by and on behalf of the Class Representatives and Settlement Class Members.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among Class Representatives, individually and on behalf of the Settlement Class, Class Counsel, and ILS

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that, subject to the Court’s approval, when Judgment becomes Final as defined herein, the Litigation and the Released Claims shall be finally and fully compromised, settled, and released, and the Litigation shall be dismissed with prejudice as to the Settling Parties, the Settlement Class, and all Settlement Class Members, except those Settlement Class Members who lawfully opt-out of the Settlement Agreement.

1. Definitions

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

1.1 **“Agreement”** or **“Settlement Agreement”** means this agreement.

1.2 **“Approved Claims”** means Claims in an amount approved by the **Settlement Administrator** (defined below) or found to be valid through the Dispute Resolution process, as set forth in this Agreement.

1.3 **“CAFA Notice”** means the notice required by 28 U.S.C. §1715.

1.4 **“California Statutory Claims”** mean statutory claims that were asserted solely on behalf of the California Class in Plaintiffs’ Consolidated Class Action Complaint, which are as follows: California Consumer Privacy Act, Cal. Civ. Code §1798.100, *et seq.*; California Consumer Records Act, Cal. Civ. Code §1798.80, *et seq.*; California Confidentiality of Medical Information Act, Cal. Civ. Code §56, *et seq.*; and the California Unfair Competition Act, Cal. Bus. & Prof. Code §17200, *et seq.*

1.5 **“Claim”** means a claim for settlement benefits made under the terms of this Settlement Agreement.

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1.6 “**Claim Form**” means the form that will be available for Settlement Class Members to submit a **Claim** (defined below) to the Settlement Administrator and that is substantially in the form of **Exhibit A**. Settlement Class Members must submit a Claim Form, subject to the provisions of this Settlement Agreement, to obtain benefits under this Settlement Agreement.

1.7 “**Claims Deadline**” is defined in Section 3, which shall be ninety (90) calendar days after the Notice Date (defined below), or as otherwise ordered by the Court. The Claims Deadline shall be clearly identified in the **Preliminary Approval Order** (defined below), as well as in the **Notice** (defined below) and **Claim Form** (defined below).

1.8 “**Class Counsel**” means any attorney and firm that has represented one or more Plaintiffs in the Civil Actions.

1.9 “**Class Representatives**” or “**Plaintiffs**” means David Asato, Katrina Berres, Ge Xiao Fang, Melinda Geleng, Mathew George, Maria Gomez, Dimitri Gutierrez, Chelsea Jensen, Rhianna McMullen, David Perez, Mark Salzano, Ernest Scoggan, and Ryan Smith.

1.10 “**Co-Lead Class Counsel**” or “**Proposed Co-Lead Class Counsel**” means Stuart A. Davidson of Robbins Geller Rudman & Dowd LLP, Alexandra M. Honeycutt of Milberg Coleman Bryson Phillips Grossman PLLC, and John A. Yanchunis of Morgan & Morgan.

1.11 “**Court**” means the United States District Court for the Southern District of Florida, Miami Division, United States District Judge Kathleen M. Williams (or such other Judge as is assigned to the Civil Actions) presiding.

1.12 “**Customers**” mean ILS’ business associates and customers, including all health care plans and companies for which ILS provides services.

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1.13 “**Data Security Incident**” or “**Data Incident**” means the access by unauthorized actors to ILS’s computer network discovered in or around June and July 2022 and the related notices, as further described in the Recitals, and any and all facts, actions and circumstances related thereto, whether occurring or arising before, on or after the date of this Agreement.

1.14 “**Effective Date**” shall mean the date when the Settlement Agreement becomes Final, which is thirty-one (31) calendar days after the Court’s entry of a **Final Approval Order** and **Judgment**, assuming no appeals are filed. If any appeal is filed, the Effective Date will be the date when this settlement and Final Approval Order are affirmed on appeal and the **Judgment** (defined below) becomes **Final** (as defined below) in this case.

1.15 “**Escrow Agent**” means Huntington Bank.

1.16 “**Fee and Expense Award**” means the award of attorneys’ fees and expenses by the Court to Class Counsel, to be paid from the **Settlement Fund** (defined below).

1.17 “**Fee Application**” means the motion filed by Co-Lead Class Counsel for a Fee and Expense Award.

1.18 “**Final**” means the occurrence of all of the following events: (a) the settlement pursuant to this Settlement Agreement receives final approval by the Court; (b) the Court has entered a **Final Approval Order** and **Judgment** (defined below); and (c) the time to appeal or seek permission to appeal from the Judgment has expired or, if appealed, the appeal has been dismissed in its entirety, or the Judgment has been affirmed in its entirety by the court of last resort to which such appeal may be taken, and such dismissal or affirmance has become no longer subject to further appeal or review. Notwithstanding the above, any order not granting the full amount of any Fee and Expense Award or modifying or reversing any Fee and Expense Award made in this

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case shall not affect whether the Judgment is “Final” as defined herein or any other aspect of the Judgment.

1.19 “**Final Approval Hearing**” means the hearing at which the Court will determine whether to finally approve the proposed Settlement.

1.20 “**Final Approval Order**” means the order finally approving the Settlement Agreement. The Settling Parties’ proposed form of Final Approval Order is attached to this Agreement as **Exhibit E**.

1.21 “**Judgment**” means a judgment with prejudice rendered by the Court under Federal Rule of Civil Procedure 54 that fully implements the release of the Released Claims for the Released Persons in substantially the form as **Exhibit F**.

1.22 “**Litigation**” means this consolidated putative class action, captioned *In re Independent Living Systems Data Breach Litigation*, No. 1:23-cv-21060-Williams (S.D. Fla.).

1.23 “**Long Notice**” means the long form notice of settlement to be posted on the Settlement Website (as defined below), substantially in the form of **Exhibit B**.

1.24 “**Net Settlement Fund**” means the Settlement Fund less any Fee and Expense Award, Notice and Administration Expenses, and Taxes and Tax-Related Expenses.

1.25 “**Non-Profit Residual Recipient**” means a non-profit organization(s) reasonably agreed upon by the Settling Parties that is not politically partisan, does not advocate a litigation agenda, and is approved by the Court which shall receive any Residual Funds remaining following distribution of Settlement Payments. For purposes of this Settlement Agreement, the Settling Parties have jointly selected the Alzheimer’s Association as the Non-Profit Residual Recipient.

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1.26 **“Notice and Administration Expenses”** means all fees and costs associated with the administration of the Settlement and the provision of notice to the Settlement Class, including, without limitation: the costs of identifying and locating members of the Settlement Class; printing and mailing the Short Notice and Claim Form; assisting with the filing of Claims; administering and distributing the Net Settlement Fund to Settlement Class Members who submit valid Claims; processing Claim Forms; escrow fees and costs; establishing the Settlement Website; and the administrative expenses incurred and fees charged by the Settlement Administrator in connection with processing the submitted Claims.

1.27 **“Notice Date”** is the date that Short Notice and Long Notice will be issued or otherwise made available to Settlement Class Members, which will commence thirty (30) calendar days after the entry of the Preliminary Approval Order, or as otherwise ordered by the Court.

1.28 **“Notice Plan”** consists of dissemination of the Short Notice that will be mailed to Settlement Class Members via regular U.S. Mail for whom mailing addresses are available, emailed to Settlement Class Members to extent email addresses are available, posting the Long Notice to the Settlement Website, and posting other important case information and important case documents to the Settlement Website.

1.29 **“Objection Date”** means the date by which Settlement Class Members must file with the Settlement Administrator any objections to the Settlement or Class Counsel’s Fee Application. The Objection Date shall be sixty (60) calendar days after the Notice Date, or as otherwise ordered by the Court.

1.30 **“Opt-Out Date”** means the date by which Settlement Class Members’ requests to be excluded from the Settlement Class must be received for that request to be effective. The

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postmark date, if one, shall constitute evidence of receipt for these purposes. The Opt-Out Date shall be sixty (60) calendar days after the Notice Date, or as otherwise ordered by the Court.

1.31 **“Out-of-Pocket Losses”** means documented out-of-pocket costs or expenditures that a Settlement Class Member actually and reasonably incurred that are fairly traceable to the Data Security Incident, and that have not already been reimbursed by a third party. “Out-of-Pocket Losses” include but are not limited to: (a) unreimbursed payment card fees or unreimbursed bank fees, including unreimbursed card reissuance fees, unreimbursed overdraft fees, unreimbursed charges related to unavailability of funds, unreimbursed late fees, unreimbursed over-limit fees and unreimbursed fees relating to an account being frozen or otherwise unavailable due to the Data Security Incident; (b) cell, internet or text charges; (c) unreimbursed costs or charges for obtaining credit reports or credit freezes incurred on or after June 30, 2022 through the date of the Settlement Class Member’s claim submission before the Claims Deadline; (d) other unreimbursed costs associated with fraud or identity theft, including attorneys’ fees and accountant fees; and (e) postage costs.

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

1.33 **“Preliminary Approval Order”** means the order preliminarily approving the Settlement Agreement and ordering that notice be provided to the Settlement Class. The Settling

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Parties' proposed form of Preliminary Approval Order is attached to this Agreement as **Exhibit C**.

1.34 **"Pro Rata Shares"** are equal shares of the Net Settlement Fund. To calculate the pro rata shares, the amount of the Net Settlement Fund shall be divided by the number of approved claims for Pro Rata Cash Payments. For purposes of determining the number of approved claims for Pro Rata Cash Payments, each approved claim for California Cash Payments shall be counted twice, to create an accurate count for purposes of awarding those claiming California Cash Payments two pro rata shares.

1.35 **"Related Entities"** means ILS' past or present parents, subsidiaries, affiliates, divisions, and related or affiliated entities of any nature whatsoever, whether direct or indirect, as well as each of ILS' and these entities' respective predecessors, successors, directors, managers, officers, employees, members, principals, agents, attorneys, insurers, and reinsurers. Related Entities include, without limitation, any Person related to any such entity who is, was, or could have been named as a defendant in the Civil Actions and/or this Litigation.

1.36 **"Released Claims"** shall collectively mean any and all claims, actions, causes of action, suits, debts, sums of money, payments, obligations, reckonings, promises, damages, penalties, attorney's fees and costs, liens, judgments, demands, requests for relief, and any other forms of liability, both known and unknown (including **Unknown Claims** (defined below)), against any Released Person arising out of or relating to the Data Security Incident or the maintenance, storage, theft, or disclosure of any Settlement Class Member's Sensitive Information. Released Claims include, but are not limited to, any causes of action under any California statute (including the California Consumer Privacy Act, the Confidentiality of Medical Information Act,

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and the California Unfair Competition Law), any causes of action under any similar statutes in other states, any causes of action for negligence, negligence per se, breach of contract, breach of implied contract, breach of fiduciary duty, breach of confidence, invasion of privacy, misrepresentation (whether fraudulent, negligent, or innocent), unjust enrichment, bailment, wantonness, failure to provide adequate notice pursuant to any breach notification statute or common law duty, or breach of any consumer protection statute, and any and all claims for damages, injunctive relief, disgorgement, declaratory relief, equitable relief, attorneys' fees and expenses, pre-judgment interest, credit monitoring services, the creation of a fund for future damages, statutory damages, punitive damages, special damages, exemplary damages, restitution, the appointment of a receiver, or any other form of relief. Released Claims shall not include the right of any Settlement Class Member or any of the Released Persons to enforce the terms of the settlement contained in this Settlement Agreement and shall not include the claims of Settlement Class Members who have timely excluded themselves from the Settlement Class.

1.37 **"Released Persons"** means ILS, ILS's Related Entities, and ILS's Customers.

1.38 **"Release"** or **"Releases"** means the releases of all Released Claims by all Settlement Class Members, including Class Representatives, against the Released Persons, as provided for in Section 9 of the Settlement Agreement.

1.39 **"Residual Funds"** means any funds that remain in the Net Settlement Fund after settlement payments have been distributed and the time for cashing and/or redeeming Settlement Payments has expired. The Residual Funds will be sent to a Non-Profit Residual Recipient.

1.40 **"Sensitive Information"** means: (a) personally identifying information ("PII"), including names, dates of birth, Social Security Numbers, taxpayer identification numbers, or other

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information linked or linkable to an individual; and (b) protected health information (“PHI”) or other medical information, including medical diagnosis, condition or treatment information and health insurance information linked or linkable to an individual.

1.41 “**Settlement Administration**” means the administration of the Settlement and the provision of notice to the Settlement Class, including, without limitation: the costs of identifying and locating members of the Settlement Class; printing and mailing or emailing the Short Notice and Claim Form; assisting with the filing of Claims; administering and distributing the Net Settlement Fund to Settlement Class Members who submit valid Claims; processing Claim Forms; escrow fees and costs; establishing the **Settlement Website** (defined below); and the administrative expenses incurred and fees charged by the Settlement Administrator in connection with processing the submitted Claims.

1.42 “**Settlement Administrator**” means Kroll Settlement Administration LLC.

1.43 “**Settlement Amount**” means Fourteen Million Dollars (\$14,000,000.00) in cash to be paid by wire transfer to the Escrow Agent pursuant to Paragraph 2.1 of this Settlement Agreement.

1.44 “**Settlement Class**” means: “All persons residing in the United States whose personal information was exposed or potentially accessed in the Data Breach at ILS.” The Settlement Class consists of approximately 3.9 million individuals.

1.45 “**Settlement Class Member**” means any Person who falls within the definition of the Settlement Class.

1.46 “**Settlement Fund**” means the Settlement Amount plus all interest and accretions thereto.

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1.47 “**Settlement Payment**” means the payment (via paper checks or electronic payment) to be made to a Settlement Class Member from the Net Settlement Fund, based on an Approved Claim.

1.48 “**Settlement Website**” means the website that the Settlement Administrator will establish at a URL to be proposed by the Settlement Administrator and agreed upon by the Settling Parties as soon as practicable following entry of the Preliminary Approval Order as a means for Settlement Class Members to view and download notice of and information about the Settlement, including relevant case documents and deadlines. The Settlement Administrator will administer and update the Settlement Website in accordance with the terms of this Settlement Agreement. The Settlement Website shall contain relevant, mutually-agreed-to documents, including, but not limited to, a downloadable version of the Short Notice, the Long Notice, the Claim Form; this Agreement; Plaintiffs’ motion for preliminary approval of the Settlement; the Preliminary Approval Order; and the Fee Application. The Settlement Website shall also include a toll-free telephone number, email address, and mailing address through which Settlement Class Members may contact the Settlement Administrator directly. The Settlement Website shall not include any advertising and shall remain operational until at least one hundred eighty (180) calendar days after all Settlement Payments have been distributed. Proposed Class Counsel and Counsel for ILS may agree on changes to the format of the Settlement Website, and may agree to add information to the Settlement Website.

1.49 “**Settling Parties**” means, collectively, ILS and Class Representatives, individually and on behalf of the Settlement Class.

1.50 “**Short Notice**” means the short-form notice of this proposed class action Settlement, substantially in the form as shown in **Exhibit D** to this Settlement Agreement. The

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Short Notice will direct recipients to the Settlement Website where recipients may view the Long Notice and make a Claim for monetary relief. The Short Notice also will inform Settlement Class Members, *inter alia*, of the Claims Deadline, the Opt-Out Date and Objection Date, and the date of the Final Approval Hearing.

1.51 “**Tax Expenses**” means expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) the returns described in Paragraph 2.7.

1.52 “**Taxes and Tax-Related Expenses**” means: (a) any and all applicable taxes, duties and similar charges imposed by a government authority (including any estimated taxes, interest or penalties) arising in any jurisdiction with respect to the income or gains earned by or in respect of the Settlement Fund, including, without limitation, any taxes that may be imposed upon ILS or its counsel with respect to any income or gains earned by or in respect of the Settlement Fund; (b) any other taxes, duties and similar charges imposed by a government authority (including any estimated taxes, interest or penalties) relating to the Settlement Fund that the Settlement Administrator determines are or will become due and owing, if any; and (c) any and all expenses and liabilities incurred in connection with the taxation of the Settlement Fund (including without limitation, expenses of tax attorneys and accountants).

1.53 “**Unknown Claims**” means any of the Released Claims that any Settlement Class Member, including any of the Class Representatives, does not know or suspect to exist in his or her favor at the time of the release of the Released Persons that, if known by him or her, might have affected his or her settlement with, and release of, the Released Persons, or might have affected his or her decision not to object to and/or participate in this Settlement Agreement. With

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respect to any and all Released Claims, including Unknown Claims, the Settling Parties stipulate and agree that upon the date the Judgment becomes Final, the Class Representatives expressly shall have, and each of the other Settlement Class Members shall be deemed to have, and by operation of the Judgment shall have, waived the provisions, rights, and benefits conferred by California Civil Code §1542, as well as any and all provisions, rights, and benefits conferred by any law of any state, province, or territory of the United States which is similar, comparable, or equivalent to California Civil Code §1542, which 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.

Settlement Class Members, including the Class Representatives, may hereafter discover facts in addition to, or different from, those that they now know or believe to be true with respect to the subject matter of the Released Claims, including Unknown Claims, but the Class Representatives expressly shall have, and each other Settlement Class Member shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever settled and released any and all Released Claims, including Unknown Claims. The Settling Parties acknowledge, and Settlement Class Members shall be deemed by operation of the Judgment to have acknowledged, that the foregoing waiver is a material element of the Settlement Agreement of which this release is a part.

2. The Settlement Fund

2.1 ILS shall pay the Settlement Amount by wire transfer in accordance with instructions, to be provided by the Escrow Agent as follows: Within thirty (30) calendar days of an order from the Court directing notice to the Settlement Class and receipt of voice-confirmed payment instructions from a phone number known to ILS's Counsel before the publication of this

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Agreement and all necessary W-9 forms ILS will pay an amount to the Escrow Agent determined by the Settlement Administrator to be reasonably necessary to commence the notice plan, which amount will be credited towards the remaining Settlement Amount ILS must pay to the Escrow Agent. ILS will pay the balance of the Settlement Amount to the Escrow Agent within thirty (30) calendar days after the later of: (a) the date that the Final Approval Order and Judgment become Final and, thus, after the Effective Date; and (b) receipt of voice-confirmed payment instructions from a phone number known to ILS's Counsel before the publication of this Agreement and all necessary W-9 forms. The Escrow Agent shall deposit the Settlement Amount plus any accrued interest in a segregated Escrow Account for the Settlement Fund maintained by the Escrow Agent. The Escrow Account shall be controlled solely by the Escrow Agent and shall be interest bearing.

a. The Escrow Agent

2.2 The Escrow Agent shall invest the Settlement Amount deposited pursuant to Paragraph 2.1 hereof in instruments backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof, or in money funds holding only instruments backed by the full faith and credit of the United States Government, and shall reinvest the proceeds of these instruments as they mature in similar instruments at their then-current market rates. The Released Persons shall have no responsibility for, interest in, or liability whatsoever with respect to investment decisions executed by the Escrow Agent. All costs

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and risks related to the investment of the Settlement Fund in accordance with the guidelines set forth in this paragraph shall be borne by the Settlement Fund.

2.3 The Escrow Agent shall not disburse the Settlement Fund except: (a) as provided in this Settlement Agreement, (b) by an order of the Court, or (c) with the written agreement of Counsel for the Settling Parties.

2.4 Subject to further order(s) and/or directions as may be made by the Court, or as provided in this Settlement Agreement, the Escrow Agent is authorized to execute such transactions as are consistent with the terms of this Settlement Agreement. Other than the obligation to pay or cause to be paid the Settlement Amount into the Escrow Account set forth in Paragraph 2.1 herein, the Released Persons shall have no responsibility for, interest in, or liability whatsoever with respect to: (a) any act, omission, or determination by the Escrow Agent, Class Counsel or the Settlement Administrator, or any of their respective designees or agents, in connection with the administration of the Settlement or otherwise; or (b) any transaction executed by the Escrow Agent or any designees or agents thereof. Other than the obligation to cause the payment of the Settlement Amount pursuant to Paragraph 2.1, ILS shall have no obligation to make any other payments into the Escrow Account or to any Settlement Class Member pursuant to this Settlement Agreement.

2.5 All funds held by the Escrow Agent shall be deemed and considered to be in *custodia legis* of the Court, and shall be subject to the jurisdiction of the Court.

2.6 The Escrow Agent, without further approval of ILS or the Court, may pay as incurred and from the Settlement Fund, all Notice and Administration Expenses subject only to the approval of Co-Lead Class Counsel.

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b. Taxes and Settlement Fund

2.7 The Settling Parties and the Escrow Agent agree to treat the Settlement Fund as being at all times a “Qualified Settlement Fund” within the meaning of Treasury Regulation §1.468B-1, and shall be interest bearing. In addition, the Escrow Agent shall timely make such elections as necessary or advisable to carry out the provisions of this Paragraph 2.7, including the “relation-back election” (as defined in Treasury Regulation §1.468B-1) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Escrow Agent to timely and properly prepare and deliver, or cause the preparation and delivery of, the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.

(a) For the purpose of §1.468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the “administrator” shall be the Escrow Agent. The Escrow Agent shall be solely responsible for timely and properly filing, or causing to be filed, all informational and other tax returns necessary or advisable with respect to the Settlement Fund (including, without limitation, the returns described in Treasury Regulation §1.468B-2(k)). Such returns (as well as the election described in Paragraph 2.7(a) hereof) shall be consistent with this Paragraph 2.7 and in all events shall reflect that all Taxes including any estimated Taxes, interest, or penalties on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided in Paragraph 2.7(c) hereof. Released Persons shall not have liability or responsibility for any such Taxes.

(b) The following shall be paid out of the Settlement Fund: (i) all Taxes (including any estimated Taxes, interest, or penalties) and Tax-Related Expenses arising with

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respect to the income earned by the Settlement Fund, including any Taxes or tax detriments that may be imposed upon ILS with respect to any income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as a “Qualified Settlement Fund” for federal or state income tax purposes, and (ii) all expenses and costs incurred in connection with the operation and implementation of this Paragraph 2.7 (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) the returns described in this Paragraph 2.7). In all events, the Released Persons and their counsel shall have no liability or responsibility for the Taxes or the Tax Expenses. Taxes and Tax Expenses shall be treated as, and considered to be, a cost of administration of the Settlement Fund and shall be timely paid, or caused to be paid, by the Escrow Agent out of the Settlement Fund without prior order from the Court, and the Escrow Agent shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to Settlement Class Members any funds necessary to pay such amounts, including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to be withheld under Treasury Regulation §1.468B-2(l)(2)); neither the Released Persons nor their counsel are responsible nor shall they have any liability therefor. The Settling Parties hereto agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this Paragraph 2.7.

2.8 The Settlement Administrator, subject to such supervision and direction of the Court and/or Co-Lead Class Counsel as may be necessary or as circumstances may require, shall administer and/or oversee distribution of the Net Settlement Fund to Settlement Class Members pursuant to this Agreement.

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2.9 The Settlement Administrator and Co-Lead Class Counsel are responsible for communicating with Settlement Class Members regarding the distribution of the Net Settlement Fund and amounts paid under the Settlement.

2.10 Each Representative Plaintiff and Settlement Class Member shall be solely responsible for the federal, state, and local tax consequences to him, her, or it of the receipt of funds from the Settlement Fund pursuant to this Agreement.

3. Settlement Benefits

3.1 The Settlement Fund shall be the sole source of monetary funds for the payment of Settlement Benefits to Settlement Class Members set forth herein.

3.2 **Pro Rata Cash Payment Claims.** All Settlement Class Members who submit an Approved Claim using the Claim Form to this Settlement Agreement, may request a Cash Payment (either California Cash Payment or Pro Rata Cash Payment) (the “Cash Payment”). The Settlement Class Member may only choose one form of Cash Payment by submitting a Claim Form to the Settlement Administrator no later than ninety (90) calendar days after the Notice Date, or other deadline approved by the Court (the “Claims Deadline”). The Cash Payment will be calculated in accordance with Paragraph 3.3 below. One Cash Payment will be issued per Approved Claim and will be paid from the Net Settlement Fund.

(a) **California Cash Compensation (California Cash Payment):** After the payment for Out-of-Pocket Loss Claims, explained below in Paragraph 3.3, the Settlement Administrator will issue California Cash Payments from the remaining Net Settlement Fund, consisting of two pro rata shares (2x) of the Remaining Fund for each Settlement Class Member residing in California at the time of the Data Security Incident. Settlement Class Members claiming

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the California Cash Payment must attest that they resided in California on June 30, 2022. For the avoidance of doubt, the intention of awarding two pro rata shares to those validly claiming the California Cash Payment is to provide those approved claimants with double the amount of the Pro Rata Cash Payment, in recognition of the potential value of the California Statutory Claims.

(b) **Cash Compensation (Pro Rata Cash Payment):** After the payment of Out-of-Pocket Loss Claims, the Settlement Administrator will issue Pro Rata Cash Payments of a single pro rata share of the remaining Net Settlement Fund for each Settlement Class Member who did not reside in California at the time of the Data Security Incident.

3.3 Out-of-Pocket Loss Claims. In addition to the Cash Payments described in Paragraphs 3.2(a) & (b) above, Settlement Class Members may claim reimbursement for documented Out-of-Pocket Losses. Claims for Out-of-Pocket Losses will be subject to review for completeness and plausibility by the Settlement Administrator.

(a) Settlement Class Members are entitled to compensation for Out-of-Pocket Losses that more likely than not resulted from the Data Security Incident, up to a maximum amount of \$5,000, provided they submit an Approved Claim;

(b) The Settlement Administrator shall have the sole discretion and authority to determine whether the prerequisites, as described in the Long Notice, have been met to award payments for Out-of-Pocket Losses.

3.4 Claims for approved Out-of-Pocket Loss Claims shall be paid prior to determining the amount of California Cash Payments and Pro Rata Cash Payments.

3.5 The Settlement Administrator shall verify that each Person who submits a Claim Form is a Settlement Class Member. No Settlement Class Member may have more than one

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Approved Claim. Ambiguities or deficiencies on the face of the Claim Form shall be resolved by the Settlement Administrator. The Settling Parties shall have the right to audit the resolution of decisions made by the Settlement Administrator at their own expense and may seek review by the Court of the Settlement Administrator's determination of Out-of-Pocket Loss Claims after attempting to meet and confer with the Settlement Administrator and the other Settling Parties.

3.6 For any payments 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 shall make reasonable efforts to locate a valid address and resend the payment within thirty (30) calendar days after the payment is returned to the Settlement Administrator as undeliverable. In attempting to locate a valid address, the Settlement Administrator is authorized to send an email and/or place a telephone call to that Settlement Class Member to obtain updated address information. Only one replacement payment may be issued per Settlement Class Member.

3.7 If the Settlement Administrator is notified that a Settlement Class Member is deceased, the Settlement Administrator is authorized to reissue payment to the Settlement Class Member's estate upon receiving proof that the Settlement Class Member is deceased and after consultation with Class Counsel.

3.8 **Residual Funds.** If any monies remain in the Net Settlement Fund (due to returned or uncashed checks or otherwise) more than one hundred twenty (120) calendar days after the distribution of Settlement Payments described in Paragraphs 3.2-3.4 above, and it is not economically feasible to distribute the residual funds to class members who have filed claims and

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whose claims have been allowed, then the Settling Parties will distribute the residual funds to the Non-Profit Residual Recipient.

3.9 Business Practices Changes. ILS represents that, since the Data Security Incident and in part as a result of the Litigation, it has implemented certain business practice changes that have resulted in new incremental spend of more than \$2 million on data security. In addition, ILS represents that, in part as a result of the Litigation, it has maintained those changes. As part of the Settlement of the Litigation, ILS will prepare for Co-Lead Class Counsel a confidential statement subject to the protective order in the Litigation that outlines the changes already implemented. Co-Lead Class Counsel may share the confidential statement with their expert and may submit it to the Court under seal in connection with their motions for preliminary or final approval. Costs associated with these business practice changes shall be separate and apart from the Settlement Amount.

4. Administration of Claims and Claim Resolution

4.1 The Settlement Administrator shall administer and calculate the Claims submitted by Settlement Class Members. Co-Lead Class Counsel and ILS' Counsel shall be given reports as to both Claims and distribution periodically (or as requested) and have the right to review and obtain supporting documentation and challenge such reports if they believe them to be inaccurate or inadequate. Any determination by the Settlement Administrator regarding whether to approve a Claim shall be binding, subject to the Claim Resolution process set forth in Section 4.

4.2 Settlement Class Members with Approved Claims shall be able to select from a variety of payment options, including Zelle, PayPal, Venmo, ACH, virtual pre-paid Mastercard,

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and/or paper check. Settlement Payments for Approved Claims shall be transmitted or mailed to Settlement Class Members within sixty (60) calendar days of the date the Judgment becomes Final.

4.3 All Settlement Class Members who fail to timely submit a Claim for any benefits hereunder within the time frames set forth herein, or such other period as may be ordered by the Court, or otherwise allowed, shall be forever barred from receiving any Settlement Payment pursuant to this Settlement Agreement, but will in all other respects be subject to, and bound by, the provisions of the Settlement Agreement, the releases contained herein, and the Judgment.

4.4 No Person shall have any claim against ILS, Class Counsel, ILS' Counsel, any of the Released Persons, or any of the Class Representatives based on distributions to Settlement Class Members made substantially in accordance with this Settlement Agreement and the settlement contained herein or any alleged failure by ILS to implement or maintain any business practice changes.

4.5 Information submitted by Settlement Class Members pursuant to this Settlement Agreement shall be deemed confidential and protected as such by ILS and the Settlement Administrator.

4.6 Upon receipt of an incomplete or unsigned Claim Form or a Claim Form that is not accompanied by sufficient documentation to determine whether the claimant is a Settlement Class Member, the Settlement Administrator shall request additional information ("Claim Supplementation") and give the claimant thirty (30) calendar days to cure the defect before rejecting the Claim. If the defect is not timely cured, then the Claim will be deemed invalid and there shall be no obligation to pay the Claim.

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4.7 Following receipt of additional information or documentation from a Settlement Class Member in response to a request for Claim Supplementation, the Settlement Administrator shall have thirty (30) calendar days to accept or reject each Claim. If, after review of the Claim and all documentation submitted by the claimant, the Settlement Administrator determines that such a Claim is valid, either in whole or in part, then the Claim shall be paid. If the Claim is not valid because the claimant has not provided all information needed to complete the Claim Form and evaluate and substantiate the Claim, then the Settlement Administrator may reject the Claim without any further action, subject to the provisions of Paragraph 4.1.

4.8 A Settlement Class Member shall have thirty (30) calendar days thereafter to appeal the Settlement Administrator's determination. Appeals shall be submitted to the Settlement Administrator in writing by U.S. Mail, addressed to the post office box designated by the Settlement Administrator, and postmarked no later than the 30 (thirty) day deadline.

4.9 If there is any ambiguity with respect to a Settlement Class Member's election of monetary compensation and the Settlement Administrator cannot resolve the ambiguity, the ambiguous Claim Form shall default to providing a Cash Compensation payment under Paragraph 3.2(b).

5. Preliminary Approval and Notice of Fairness Hearing

5.1 Within fourteen (14) calendar days after the execution of the Settlement Agreement, Class Counsel shall prepare a Motion for Preliminary Approval and provide it to ILS' Counsel for review. No later than ten (10) business days after that, Class Counsel shall file a Motion for Preliminary Approval of Class Action Settlement, including the Settlement Agreement, with the Court requesting, among other things:

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- (a) certification of the Settlement Class for settlement purposes only;
- (b) preliminary approval of the Settlement Agreement as set forth herein;
- (c) appointment of Proposed Class Counsel;
- (d) appointment of Plaintiffs as the Class Representatives;
- (e) appointment of the Settlement Administrator;
- (f) approval for the Settlement Administrator to establish the Settlement

Website. The Parties shall meet and confer and choose a mutually acceptable URL for the Settlement Website; and

- (g) approval of a Claim Form substantially similar to that attached hereto as

Exhibit A.

5.2 The cost of notice to the Settlement Class in accordance with the Preliminary Approval Order, together with all other Notice and Administration Expenses, shall be paid from the Settlement Fund. Any Fee and Expense Award shall also be paid from the Settlement Fund. Notice shall be provided to Settlement Class Members in a manner that satisfies constitutional requirements and due process. The Notice Plan shall be subject to approval by the Court as meeting the requirements of Fed. R. Civ. P. 23 and constitutional due process requirements. The Settlement Administrator shall establish a dedicated Settlement Website and shall maintain and update the website as provided in Paragraph 1.48, above, with the forms of Short Notice, Long Notice, and Claim Form approved by the Court, as well as this Settlement Agreement. A toll-free help line staffed with a reasonable number of live operators shall be made available to address Settlement Class Members' inquiries which shall be included within Notice and Administration Expenses to be paid from the Settlement Fund. The Settlement Administrator also will mail to Settlement Class

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Members the Short Notice, and, upon request, will mail them the Long Notice, the Claim Form, and this Settlement Agreement. Before the Final Fairness Hearing, Proposed Co-Lead Class Counsel shall cause to be filed with the Court an appropriate affidavit or declaration with respect to complying with this Paragraph 5.2 and the Notice Plan. The Short Notice, Long Notice, and Claim Form approved by the Court may be adjusted by the Settlement Administrator, respectively, in consultation and agreement with the Settling Parties, as may be reasonable and necessary and not inconsistent with the Court's approval. Dissemination of the Short Notice shall commence within thirty (30) calendar days of the entry of the Preliminary Approval Order and shall be substantially completed within fifteen (15) calendar days of the Notice Date, or as otherwise ordered by the Court.

5.3 Co-Lead Class Counsel and Defendant's Counsel shall request the Court hold the Final Approval Hearing approximately six months from the date of the entry of the Preliminary Approval Order.

6. Settlement Class Notice

6.1 Within seven (7) calendar days after the entry of the Preliminary Approval Order, ILS shall provide to the Settlement Administrator via a secure file transfer mechanism established by the Settlement Administrator one or more data files comprising a list of the Settlement Class Members that includes full names (to the extent available), current addresses (to the extent available), and email addresses (to the extent available), based upon ILS' records from sending notice of the Data Security Incident. The Settlement Administrator may have to consolidate, de-duplicate, or otherwise perform appropriate data analysis and standardization to compile an appropriate notice list of Settlement Class Members. Within thirty (30) calendar days after the

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Preliminary Approval Order is entered, the Settlement Administrator shall commence mailing (via first-class U.S. Mail) or emailing the Short Notice to all Settlement Class Members for whom mailing addresses or email addresses are available. The Settlement Administrator shall commence notice through a media campaign expected to reach as many Settlement Class Members as reasonably possible. The process to issue notice as described in this Paragraph and the creation and maintenance of the Settlement Website shall constitute the Notice Plan.

6.2 Any Settlement Class Member who does not file a timely and adequate objection in accordance with Section 8 waives the right to object or to be heard at the Final Approval Hearing and shall be forever barred from making any objection to the Settlement, unless otherwise ordered by the Court.

7. **Opt-Out Procedures**

7.1 Each Person wishing to opt-out of the Settlement Class shall individually sign and timely submit written notice of such intent to the designated postal address established by the Settlement Administrator. The written notice should contain words or phrases such as “opt-out,” “opt out,” or “exclusion,” and must clearly manifest a Person’s intent to be excluded from the Settlement Class, which intent shall be determined by the Settlement Administrator. Written notice must be received, or postmarked if the written notice contains a postmark, by the Claims Deadline to be effective. Each Settlement Class Member may only opt-out on behalf of himself or herself, based upon a signed written notice. Mass or class opt-outs will not be valid.

7.2 All Persons who submit valid and timely notices of their intent to be excluded from the Settlement Class, as set forth in Paragraph 7.1 above, referred to herein as “**Opt-Outs**,” shall not receive any benefits of and/or be bound by the terms of this Settlement Agreement. All Persons

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falling within the definition of the Settlement Class who do not request to be excluded from the Settlement Class in the manner set forth in Paragraph 7.1 above shall be bound by the terms of this Settlement Agreement and the Judgment entered thereon.

7.3 Commencing one week from the date Notice mailing commences, the Settlement Administrator will notify ILS' Counsel and Co-Lead Class Counsel regarding the number of potential Settlement Class Members who have elected to opt-out of the Settlement Class and will continue to provide weekly updates. No later than ten (10) calendar days after the Claims Deadline, the Settlement Administrator shall provide a final report to Co-Lead Class Counsel and ILS' Counsel that summarizes the number of written notifications of Opt-Outs received to date and provides any other pertinent information as requested by Co-Lead Class Counsel and ILS' Counsel.

7.4 ILS may, in its sole discretion, terminate this Agreement if more than a specified number of Settlement Class Members submit valid and timely requests to exclude themselves from the Settlement, as agreed to by the Parties in a separate writing that has been executed by them contemporaneously with the execution of this Agreement, and, if requested, submitted to the Court for *in camera* review. If ILS elects to terminate the Settlement Agreement pursuant to this Paragraph 7.4, it shall provide written notice to Class Counsel no later than fifteen (15) calendar days after the Opt-Out Deadline. Upon receipt of this written notice, the Settlement Agreement (and all terms herein) will be terminated consistent with Section 12, and ILS shall be obligated to pay all Notice and Administration Expenses incurred to date. No Party shall solicit, suggest, or encourage Settlement Class Members, either directly or indirectly, to opt out of the Settlement Agreement.

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8. Objection Procedures

8.1 Each Settlement Class Member desiring to object to the Settlement Agreement or Class Counsel's Fee Application shall submit a timely written notice of his or her objection. Such notice shall state: (a) the objector's full name, address, telephone number, and email address (if any); (b) information identifying the objector as a Settlement Class Member, including proof that the objector is a member of the Settlement Class (e.g., copy of notice or copy of original notice of the Data Security Incident); (c) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable; (d) the identity of all counsel representing the objector, including the identity of all counsel who will appear at the Final Approval Hearing; (e) a list of all Persons who will be called to testify at the Final Approval Hearing in support of the objection; (f) a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and (g) the objector's signature and the signature of the objector's duly authorized attorney or other duly authorized representative, along with documentation setting forth such representation. To be timely, written notice of an objection in the appropriate form must be sent to the Settlement Administrator and received or postmarked by the Claims Deadline, unless otherwise ordered by the Court.

8.2 Except upon a showing of good cause, or as otherwise allowed by the Court, any Settlement Class Member who fails to comply with the requirements for objecting in Paragraph 8.1 shall waive and forfeit any and all rights he or she may have to appear separately and/or to object to the Settlement Agreement, and shall be bound by all the terms of the Settlement Agreement and by all proceedings, orders and judgments in the Litigation. The exclusive means for any challenge to the Settlement Agreement shall be through the provisions of Paragraph 8.1.

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8.3 Submitting timely written notice of an objection under this Section shall constitute the objecting Settlement Class Member's consent to jurisdiction of the Court and to accept service of process, including subpoenas for testimony, at the email address provided in the written notice of the objection.

8.4 A Settlement Class Member who files an objection waives the right to opt-out. Conversely, a Settlement Class Member who opts out waives the right to object to the Settlement Agreement.

9. Mutual Releases

9.1 Upon the entry of the Final Approval Order, each Settlement Class Member, including Class Representatives, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against all Released Persons. Further, upon entry of the Final Approval Order, and to the fullest extent permitted by law, each Settlement Class Member, including Class Representatives, shall, either directly, indirectly, representatively, as a member of or on behalf of the general public, or in any capacity, be permanently barred and enjoined from commencing, prosecuting, or participating in any recovery in any action in this or any other forum (other than participation in the settlement as provided herein) in which any of the Released Claims is asserted.

9.2 ILS shall release and discharge Settlement Class Members, Plaintiffs, and Class Counsel from any claims that arise out of or relate in any way to the institution, prosecution, or settlement of the Litigation, except for claims relating to the enforcement of the Settlement Agreement and/or for the submission of false or fraudulent claims for settlement benefits.

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10. Proposed Class Counsel's Attorneys' Fees and Expenses

10.1 The Settling Parties did not negotiate the attorneys' fees and expenses, other than to agree that Co-Lead Class Counsel may make a Fee Application to the Court. Co-Lead Class Counsel intends to seek no more than one-third (1/3) of the Settlement Amount as attorneys' fees. In addition, Co-Lead Class Counsel will seek an award of their litigation expenses and charges.

10.2 ILS shall have no obligation to pay any attorneys' fees and expenses, or any litigation expenses, costs, or charges, apart from the amount that ILS is obligated to pay into the Settlement Fund pursuant to Section 2 of this Settlement Agreement.

10.3 Any Fee and Expense Award shall be paid to Co-Lead Class Counsel from the Escrow Account at least ten (10) calendar days after ILS completes full payment of the Settlement Amount as set forth in Paragraph 2.1 above. Co-Lead Class Counsel, in their sole discretion, shall allocate and distribute the Fee and Expense Award among themselves and any other Plaintiffs' counsel. ILS and Defendant's Counsel shall have no liability for any such allocation.

10.4 The Fee and Expense Award is intended to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the settlement. No order of the Court, or modification, reversal, or appeal of any order of the Court, concerning the amount of any Fee and Expense Award shall affect whether the Judgment is Final or constitute grounds for cancellation or termination of this Settlement Agreement.

11. Duties of the Settlement Administrator

11.1 The Settlement Administrator shall perform the functions specified in this Agreement and its Exhibits, including, but not limited to:

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- (a) Providing notice of this Settlement Agreement to Settlement Class Members;
- (b) Obtaining information, to the extent reasonably available, to establish a reasonably practical procedure to verify Settlement Class Members;
- (c) Effecting the Notice Plan as approved by the Court;
- (d) Establishing and maintaining a Post Office box or other mailing address for mailed written notifications of Opt-Outs from the Settlement Class;
- (e) Establishing and maintaining the Settlement Website that, among other things, allows Settlement Class Members to submit Claims electronically;
- (f) Establishing and maintaining a toll-free telephone line for Settlement Class Members to call with settlement-related inquiries, and answering the questions of Settlement Class Members who call with or otherwise communicate such inquiries;
- (g) Responding to any Settlement Class Member inquiries;
- (h) Mailing the Short Notice and/or Claim Form to Settlement Class Members who request them;
- (i) Processing all written notifications of Opt-Outs from the Settlement Class;
- (j) In advance of the Final Approval Hearing, preparing affidavits to submit to the Court that: (i) attest to implementation of the notice plan in accordance with the Preliminary Approval Order; (ii) identify each Settlement Class Member who timely and properly provided written notification to Opt-Out; and (iii) provide any further information requested by Class Counsel and ILS' Counsel.

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(k) Within sixty (60) calendar days after the date the Judgment becomes Final, provide activation instructions for digital payment and/or payment via paper checks, either electronically or by U.S. or International Mail, to Settlement Class Members who have submitted Approved Claims as set forth herein;

(l) Providing weekly reports and a final report to Co-Lead Class Counsel and Defendant's Counsel that summarize the number and amount of Claims and Opt-Outs since the prior reporting period, the total number and amount of Claims and Opt-Outs received to date, the number and amount of any Claims approved and denied since the prior reporting period, the total number and amount of Claims approved and denied to date, and other pertinent information as requested by Class Counsel and ILS' Counsel;

(m) Performing any function related to settlement administration at the agreed upon instruction of both Co-Lead Class Counsel and ILS' Counsel in a prudent manner, including, but not limited to, verifying that Settlement Payments have been distributed;

(n) Determining the validity of, and processing all Claims submitted by Settlement Class Members; and

(o) Overseeing administration of the Settlement Fund.

11.2. Within six (6) months after the Effective Date and completion of the administration of the settlement, and after providing Proposed Class Counsel at least ten (10) calendar days advance notice of invocation of this section, the Settlement Administrator shall, at ILS' sole discretion, either return to ILS or permanently destroy all originals, copies, documents, transcriptions, iterations, or drafts of the contact information for Settlement Class Members or any

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portion thereof, as well as any other information received by ILS. The Settlement Administrator shall certify in writing that all such records have been returned to ILS or destroyed.

12. Conditional Class Certification for Settlement Purposes, Conditions of Settlement, Effect of Disapproval, Cancellation, or Termination

12.1 In the event that any of the following events occur, this Settlement Agreement shall be canceled and terminated subject to Paragraph 12.2 unless Co-Lead Class Counsel and ILS' Counsel mutually agree in writing to proceed with the Settlement Agreement: (a) the Court declines to enter a Preliminary Approval Order as set forth in Section 5; (b) a Party has exercised any option to terminate the Settlement Agreement provided by this Agreement or its Exhibits; or (c) the Court declines to enter the Final Approval Order or the Judgment as set forth herein respectively as Exhibits E and F.

12.2 In the event that (a) the Settlement Agreement is not approved by the Court and not all Parties agree to revise the terms of the Settlement Agreement to address the Court's concerns and seek approval by the Court of a revised agreement, or (b) the Settlement Agreement is terminated in accordance with its terms, including Paragraph 7.4, then: (i) the Settling Parties shall be restored to their respective positions in the Litigation as if the Settlement Agreement had never been entered into, any remaining amount in the Settlement Fund shall immediately be returned to ILS within seven (7) business days, and the Settling Parties shall jointly request that all scheduled litigation deadlines be reasonably extended by the Court so as to avoid prejudice to any Settling Party or Settling Party's counsel; (ii) all terms and provisions of the Settlement Agreement and any statements made in connection with seeking approval of the Agreement shall be null and void, shall have no further force and effect with respect to the Settling Parties, and shall not be used in the Litigation or in any other proceeding for any purpose; and (iii) any judgment or order entered

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by the Court in accordance with the terms of the Settlement Agreement shall be treated as vacated, *nunc pro tunc*. Notwithstanding any statement in this Settlement Agreement to the contrary, no order of this Court (or any appellate court) that reduces, modifies, or limits attorneys' fees and expenses shall constitute grounds for cancellation or termination of the Settlement Agreement.

12.3 The Settling Parties agree, for purposes of this settlement only, to the conditional certification of the Settlement Class. If the settlement set forth in this Settlement Agreement is not approved by the Court, or if the Settlement Agreement is terminated or cancelled pursuant to the terms of this Settlement Agreement, this Settlement Agreement, and the certification of the Settlement Class provided for herein, will be vacated and the Litigation shall proceed as though the Settlement Class had never been certified, without prejudice to any Person's or Settling Party's position on the issue of class certification or any other issue. The Settling Parties' agreement to the certification of the Settlement Class is without prejudice to any position asserted by the Settling Parties in any other proceeding, case, or action, as to which all of their rights are specifically preserved. In other words, if the Settlement Agreement is not approved or is terminated, ILS reserves and shall have all rights to challenge certification of the Settlement Class or any class for trial or any other purpose in the Litigation, or in any other action, on all available grounds as if no Settlement Class had been certified.

12.4 If the settlement set forth in this Settlement Agreement is not approved or is terminated, the Settlement Agreement, any agreements between the Parties, and any motions in support of certification of a settlement class and/or approval of the Settlement Agreement shall be inadmissible in this Litigation or in any other case, including in connection with any motion in support of or in opposition to class certification made in the Litigation or in any other case.

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12.5 ILS will cooperate to provide reasonable and adequate information to Class Counsel so that they can perform sufficient due diligence to be able to move for preliminary and final approval of this Settlement Agreement.

13. Covenant Not To Sue And Cooperation

13.1 Class Representatives, and, upon the entry of the Final Approval Order, all Settlement Class Members, covenant and agree: (a) not to file, commence, prosecute, intervene in, or participate in (as class members or otherwise) any action in any jurisdiction based on or relating to any of the Released Claims, or the facts and circumstances relating thereto, against any of the Released Persons; (b) not to organize or solicit the participation of Settlement Class Members in a separate class for purposes of pursuing any action (including by seeking to amend a pending complaint to include class allegations, or seeking class certification in a pending action in any jurisdiction) based on or relating to any of the Released Claims or the facts and circumstances relating thereto; and (c) that the foregoing covenants and this Agreement shall be a complete defense to any of the Released Claims against any of the Released Persons.

13.2 The Settling Parties agree to cooperate reasonably and in good faith, with the goal of obtaining entry of a final Judgment as quickly as is reasonably practicable and of expeditiously reaching agreement on the matters requiring mutual agreement as set forth in this Agreement, including, but not limited to, the preparation and execution of all reasonable documents necessary to achieve final approval of the Settlement Agreement by the Court.

14. Miscellaneous Provisions

14.1 Class Representatives represent and warrant that they are the sole and exclusive owners of their own Released Claims and that they have not assigned or otherwise transferred any

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interest in any of the Released Claims against any of the Released Persons, and further covenant that they will not assign or otherwise transfer any interest in any of their Released Claims. Class Representatives further represent and warrant that they have no surviving claim or cause of action against any of the Released Persons with respect to any of the Released Claims.

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

14.3 The Settling Parties intend this settlement to be a final and complete resolution of all disputes between them with respect to the Litigation and the Released Claims. The settlement compromises any and all claims that are contested and shall not be deemed an admission by any Settling Party as to the merits of any claim or defense. The Settling Parties each agree that the settlement was negotiated in good faith by the Settling Parties and reflects a settlement that was reached voluntarily after consultation with competent legal counsel. The Parties agree that throughout the course of the litigation, all Parties and their counsel complied with the provisions of Federal Rule of Civil Procedure 11 and that the action is being settled voluntarily by the Parties after consultation with competent legal counsel. The Settling Parties reserve their right to rebut, in a manner that such party determines to be appropriate, any contention made in any public forum that the Litigation was brought or defended in bad faith or without a reasonable basis.

14.4 Neither this Settlement Agreement, nor the settlement contained herein, nor any act performed or document executed pursuant to or in furtherance of this Settlement Agreement or the settlement is or may be used as an: (a) admission of, or evidence of, the validity or lack thereof of

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any Released Claim, or of any wrongdoing or liability of any of the Released Persons; (b) admission of, or evidence of, any fault or omission of any of the Released Persons in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal; (c) admission of or support for any private cause of action or claim in any court, administrative agency, or other tribunal; or (d) admission of or support for certification of any class in any court. Any Released Person may file this Settlement Agreement and/or the Judgment in any action that may be brought against them in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar, reduction, any other theory of claim preclusion or issue preclusion, or any other similar defense or counterclaim.

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

14.6 This Settlement Agreement, together with the Exhibits attached hereto, constitutes the entire agreement among the Settling Parties, and no representations, warranties, or inducements have been made to any party concerning this Settlement Agreement, other than the representations, warranties, and covenants contained and memorialized herein. Except as otherwise provided herein, each Party shall bear its own costs. This Settlement Agreement supersedes all previous agreements made by the Settling Parties, except that all agreements made and orders entered during the course of the Litigation relating to the confidentiality of information shall survive this Settlement Agreement.

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

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14.8 Each of the undersigned attorneys represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Agreement, subject to Court approval.

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

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

14.11 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of the Settlement Agreement. All Settling Parties submit to the jurisdiction of the Court for purposes of implementing and enforcing the settlement embodied in the Settlement Agreement.

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

14.13 All dollar amounts are in United States dollars.

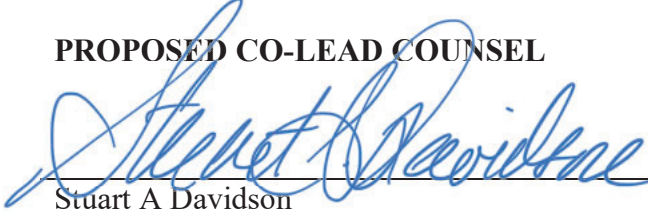
14.14 Within ten (10) calendar days of the filing of Plaintiffs' Motion for Preliminary Approval, Defendant shall provide CAFA notice required by 28 U.S.C. §1715(b). Defendant may, in its discretion, retain the Settlement Administrator to perform the task of providing CAFA notice.

[SIGNATURE PAGE FOLLOWS]

Master File No. 1:23-cv-21060-Williams

IN WITNESS WHEREOF, the parties hereto have caused the Settlement Agreement to be executed, by their duly authorized attorneys.

PROPOSED CO-LEAD COUNSEL


Stuart A Davidson
ROBBINS GELLER RUDMAN & DOWD LLP


DATE


Alex Honeycutt (Mar 25, 2025 12:53 EDT)

Alexandra M. Honeycutt
MILBERG COLEMAN BRYSON PHILLIPS
GROSSMAN PPLC

03/25/2025

DATE

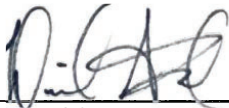


John A. Yanchunis
MORGAN & MORGAN

3/27/2025

DATE

PLAINTIFFS



David Asato

03/22/2025

DATE

Michael Berg

DATE



Katrina Berres

03/26/2025

DATE



Ge Xiao Fang (Mar 27, 2025 11:18 PDT)

Ge Xiao Fang

03/27/2025

DATE



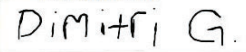


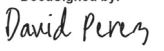
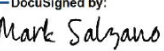

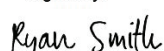


Melinda Geleng

03/26/2025

DATE

Master File No. 1:23-cv-21060-Williams

 <hr/> Matthew George	<hr/> 03/25/2025 DATE
 <hr/> Maria Gomez (Mar 24, 2025 15:52 PDT) <hr/> Maria Gomez	<hr/> 03/24/2025 DATE
DocuSigned by:  <hr/> Dmitri Gutierrez	<hr/> 03/26/2025 DATE
 <hr/> ID HdJAx4BxWRCs55W3wPVSf4rP <hr/> Chelsea Jensen	<hr/> 03/24/2025 DATE
 <hr/> Rhianna McMullen (Mar 25, 2025 13:09 EDT) <hr/> Rhianna McMullen	<hr/> 03/25/2025 DATE
DocuSigned by:  <hr/> A16F81B11E0A452... <hr/> David Perez	<hr/> 3/26/2025 DATE
DocuSigned by:  <hr/> B4D1DA99AEF04D0... <hr/> Mark Salzano	<hr/> 3/24/2025 DATE
 <hr/> Ernest Scoggan (Mar 24, 2025 19:49 PDT) <hr/> Ernest Scoggan	<hr/> 03/24/2025 DATE
Signed by:  <hr/> 3472101806D8F4911... <hr/> Ryan Smith	<hr/> 3/26/2025 DATE

Master File No. 1:23-cv-21060-Williams

DEFENDANT'S COUNSEL

DocuSigned by:

Gregory T. Parks

March 28, 2025

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Gregory T. Parks

DATE

MORGAN, LEWIS & BOCKIUS LLP

DEFENDANT

DocuSigned by:

Nestor J. Plana

3/28/2025

055F72EAFAB440...

Independent Living Systems LLC

DATE

By: Nestor J. Plana, Chairman & Chief Executive Officer

Master File No. 1:23-cv-21060-Williams

SETTLEMENT TIMELINE

Event	Date
ILS provides CAFA Notice required by 28 U.S.C. §1715(b)	Within 10 calendar days after the filing of Plaintiffs' Motion for Preliminary Approval
ILS to provide contact information for Settlement Class Members	Within 7 calendar days after entry of Preliminary Approval Order
Notice Plan commences ("Notice Date")	Within 30 calendar days after entry of Preliminary Approval Order
Compliance with CAFA Waiting Period under 28 U.S.C. §1715(d):	90 calendar days after the appropriate governmental offices are served with CAFA notice
Receipt or postmark deadline for Requests for Exclusion (opt outs) or Objections:	60 calendar days after commencement of Notice Plan
Deadline to file Plaintiffs' Motion for Final Approval and Motion for Attorneys' Fees, Costs, and Expenses:	No later than 14 calendar days prior to the Opt-Out/Objection Deadlines
Postmark/Filing deadline for members of the Settlement Class to file claims	90 calendar days after Notice Date
Deadline for Plaintiffs to file any reply	No later than 7 calendar days prior to the Final Approval Hearing
Final Approval Hearing	No earlier than 120 calendar days after Preliminary Approval Order; to be set by the Court
ILS's Payment of the balance of the Settlement Amount Pursuant to Paragraph 2.1	No later than 30 calendar days after the Effective Date
Payment of Attorneys' Fees and Expenses	At least 10 calendar days after the payment of the balance of the Settlement Amount

EXHIBIT A

CLAIM FORM

In re Independent Living Systems Data Breach Litigation

Master File No. 1:23-cv-21060-Williams

United States District Court, Southern District of Florida, Miami Division

SUBMIT BY _____, 2025

ONLINE AT WWW.**ILSDATABREACHSETTLEMENT**.COM

OR MAIL TO:

SETTLEMENT ADMINISTRATOR

ADDRESS

GENERAL CLAIM FORM INFORMATION

This Claim Form¹ should be filled out online or submitted by mail if you received a notice of data security incident letter stating your personal information was potentially compromised through the June/July 2022 data breach of Independent Living Systems LLC's ("ILS") systems or if you have a good faith reason to believe your personal information was potentially compromised through that data breach. The Settlement Class consists of "[a]ll persons residing in the United States whose personal information was exposed or potentially accessed in the Data Breach at ILS."

If you wish to submit a Claim by mail, please provide the information requested below. Please print clearly in blue or black ink. This Claim Form must be mailed and postmarked by **no later than DD, MM, 2025**.

Monetary Compensation

Cash Payment: Would you like to receive a cash payment under the Settlement? **(circle one)**

Yes

No

*If you selected "Yes," you must choose which cash payment you are eligible to receive. If you do not select an option, you will be deemed to have selected the Cash Compensation option below. If you select the California Cash Compensation and you were not a California resident on June 30, 2022, your claim will be denied.

(a) **California Cash Compensation (California Cash Payment):** After payment of Out-of-Pocket Loss Claims, the Settlement Administrator will make settlement payments of two pro rata shares (2x) of the remaining Net Settlement Fund for each Settlement Class Member who submits an Approved Claim and resided in California at the time of the Data Security Incident. The amount of this payment will increase or decrease on a pro rata basis depending upon the number of valid claims filed. **You must have been a California resident on June 30, 2022 to select this option, and must attest to this fact by checking the box below.**

¹ Unless otherwise noted, all capitalized terms herein are defined in the Class Action Settlement Agreement, available at www.**ILSDATABREACHSETTLEMENT**.com.

_____ I swear and affirm under the penalty of perjury pursuant to 28 U.S.C. §1746 that I was a California resident on June 30, 2022 and that I either received a notice of data security incident letter from Independent Living Systems LLC involving a June/July 2022 data breach or have a good faith reason to believe my personal information was potentially compromised during that data breach.

(b) **Cash Compensation (Pro Rata Cash Payment):** After payment of Out-of-Pocket Loss Claims, the Settlement Administrator will make settlement payments of a single pro rata share of the remaining Net Settlement Fund for each Settlement Class Member who submits an Approved Claim and who did not reside in California at the time of the Data Security Incident. The amount of this payment will increase or decrease on a pro rata basis depending upon the number of valid claims filed.

Which cash payment are you eligible to receive? (circle one)

California Cash Payment

Pro Rata Cash Payment

Out-of-Pocket Losses (if any): I am submitting a claim for documented unreimbursed out-of-pocket monetary losses in the amount of \$_____ that I incurred as a result of the Data Breach. I understand that I am required to provide supporting third-party documentation and to support my claim for out-of-pocket losses, such as providing copies of any receipts, bank statements, reports, or other documentation supporting my claim. This can include receipts or other documentation that I have not “self-prepared.” I understand that “self-prepared” documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but can be considered to add clarity or support other submitted documentation. I understand the Settlement Administrator may contact me for additional information before processing my claim. If I do not have information supporting my claim for unreimbursed monetary losses, I likely will not receive compensation for this settlement benefit. **I understand that any monetary compensation I may receive under the settlement is capped at \$5,000.00 for out-of-pocket expenses.**

Description of the unreimbursed, out-of-pocket loss or expenses incurred, and the documents attached to support this claim:

Please sign below indicating that you are submitting this Claim for Out-of-Pocket Losses and your representations of these losses are true and correct to the best of your knowledge and belief, and are being made under penalty of perjury under 28 U.S.C. §1746.

Signature _____

Date _____

Claimant Information

Full Name of Class Member

Unique Identifier

(Can be found on the postcard or Email Notice you received informing you about this Settlement. If you need additional help locating this ID, please contact the Settlement Administrator. If you did not receive a postcard or Email Notice, but believe you are a Settlement Class Member, you may leave this field blank and the Settlement Administrator will verify whether or not you are a Settlement Class Member)

Street/P.O. Box

City

State

Zip Code

Phone Number

Email Address

EXHIBIT B

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT
UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF FLORIDA**

In re Independent Living Systems Data Breach Litigation

Master File No. 1:23-cv-21060 (Williams)

A court has authorized this notice. This is not a solicitation from a lawyer.

If you are a U.S. resident who Independent Living Systems sent notice of a Data Breach that occurred in June 2022, or otherwise have good faith reason to believe your personal information was potentially exposed through Independent Living Systems' Data Breach, you may be entitled to benefits from a class action settlement.

- The class action lawsuit concerns a data breach that occurred in June/July 2022 (the "Data Security Incident") involving Independent Living Systems LLC ("ILS" or "Defendant") in which an unauthorized third party may have gained access to certain files containing sensitive personal information stored on ILS' systems, including: (1) personal identifying information ("PII") including names, Social Security numbers, or taxpayer identification numbers; and (2) protected health information ("PHI"), including medical information and health insurance information ("Sensitive Information"). ILS denies any wrongdoing or liability.
- The parties have agreed to a proposed class action settlement with a non-reversionary settlement fund (the "Settlement Fund").
- To be eligible to make a claim, you must have received a notice from ILS of the Data Security Incident or have a good faith reason to believe your personal information was compromised in the Data Security Incident.
- Eligible claimants under the Settlement Agreement will be eligible to receive one and/or two of the following Settlement benefits:

❖ **Out-of-Pocket Loss Claims:** Claimants with Approved Claims will receive a payment for the actual amount of unreimbursed out-of-pocket losses or expenses up to \$5,000, provided they submit supporting documentation of the monetary losses or expenses;

❖ **Cash Payment:** Claimants with Approved Claims can select one of the following cash payments, based upon eligibility:

- **California Cash Compensation (California Cash Payment):** After the payment of Out-of-Pocket Loss Claims, the Settlement Administrator will make settlement payments of two pro rata shares (2x) of the remaining Net Settlement Fund for each Settlement Class Member residing in California at the time of the Data Security Incident. The amount of this payment will increase or decrease on a pro rata basis depending upon the number of valid claims filed. You must have been a California resident on June 30, 2022 to select this option.
- **Cash Compensation (Pro Rata Cash Payment):** After payment of Out-of-Pocket Loss Claims, the Settlement Administrator will make settlement payments of a single pro rata share of the remaining Net Settlement Fund for each Settlement Class Member who did not reside in California at the time of the Data Security Incident. The amount of this payment will increase or decrease on a pro rata basis depending upon the number

of valid claims filed.

➤ For more information or to submit a claim visit www.ILSDATABREACHSETTLEMENT.com or call 1-###-###-#### Monday through Saturday, between 8:30 a.m. and 5:00 p.m. E.T.

- Please read this notice carefully. Your legal rights will be affected, and you have a choice to make at this time.

	Summary of Legal Rights	Deadline(s)
Submit a Claim Form	The only way to receive payment.	Received or Postmarked on or Before _____, 2025
Exclude Yourself By Opting Out of the Class	Receive no payment. This is the only option that allows you to keep your right to bring any other lawsuit against Defendant for the same claims if you are a Settlement Class Member.	Received or Postmarked on or Before _____, 2025
Object to the Settlement and/or Attend the Final Approval Hearing	You can write to the Court about why you agree or disagree with the Settlement or Class Counsel's Fee and Expense Request. The Court cannot order a different Settlement. You can also ask to speak to the Court at the Final Approval Hearing on _____, 2025 about the fairness of the Settlement, with or without your own attorney.	Received on or Before _____, 2025
Do Nothing	Receive no payment. Give up rights if you are a Settlement Class Member.	No Deadline.

- 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 class members will be made if the Court approves the Settlement and after any possible appeals are resolved.

What This Notice Contains

Basic Information	3
Who is in the Settlement	3
The Settlement Benefits—What You Get if You Qualify	4
How do You Submit a Claim.....	5
What Does Defendant Get	5
Excluding Yourself from the Settlement.....	5, 6
Objecting to the Settlement	6
The Lawyers Representing You	7

The Court’s Final Approval Hearing	8
If You Do Nothing	8
Getting More Information	8, 9

BASIC INFORMATION

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.

United States District Judge Kathleen M. Williams of the Southern District of Florida, Miami Division, is overseeing this case captioned as *In re Independent Living Systems Data Breach Litigation*, Master File No. 1:23-cv-21060 (Williams). The people who brought the lawsuit are called the Plaintiffs. The Plaintiffs are David Asato, Katrina Berres, Ge Xiao Fang, Melinda Geleng, Mathew George, Maria Gomez, Dimitri Gutierrez, Chelsea Jensen, Rhianna McMullen, David Perez, Mark Salzano, Ernest Scoggan, and Ryan Smith. The entity being sued, Independent Living Systems LLC (“ILS”), is called the Defendant.

The lawsuit claims that Defendant was responsible for the Data Breach and asserts claims for negligence, negligence per se, breach of contract, breach of implied contract, unjust enrichment, and violation of the Florida Deceptive and Unfair Trade Practices Act (“FDUTPA”), Fla. Stat. §501.201, et seq.), as well as thirteen counts on behalf of alternative State Classes under the consumer protection laws of those states, including the Confidentiality of Medical Information Act and California Consumer Privacy Act.

Defendant denies these claims and allegations and says it did not do anything wrong. No court or other judicial entity has made any judgment or other determination that Defendant has any liability for these claims or did anything wrong.

In a class action, one or more people called class representatives or representative plaintiffs sue on behalf of all people who have similar claims. Together, all of these people are called a class, and the individuals are called class members. One court resolves the issues for all class members, except for those who exclude themselves from the class.

The Court has not decided in favor of the Plaintiffs or Defendant. Instead, both sides agreed to the Settlement. The Settlement avoids the cost and risk of a trial and related appeals, while providing benefits to members of the Settlement Class (“Settlement Class Members”). The Class Representatives appointed to represent the Settlement Class and the attorneys for the Settlement Class (“Class Counsel,” see Question 18) think the Settlement is best for all Settlement Class Members.

WHO IS IN THE SETTLEMENT?

The Settlement Class consists of all persons residing in the United States whose personal information was exposed or potentially accessed in the Data Breach at ILS. Only Settlement Class Members are eligible to receive benefits under the Settlement. There are approximately 3.9 million Settlement

Class Members.

If you are not sure whether you are included in the Settlement, you may call 1-####-###-#### with questions. You may also write with questions to:

ILS Settlement Administrator

address

address

www.ILSDATABREACHSETTLEMENT.com

THE SETTLEMENT BENEFITS – WHAT YOU GET IF YOU QUALIFY

The Settlement creates a non-reversionary Settlement Fund of \$14,000,000, and provides the following cash payment benefits to Settlement Class Members who submit Approved Claims:

- a) Out-of-Pocket Loss Claims: Claimants may seek reimbursement of actual, documented, unreimbursed Out-of-Pocket Losses resulting from the Data Breach (up to \$5,000 in total), such as the following incurred on or after June 30, 2022:
 - any costs incurred from credit monitoring services or ordering copies of your credit report;
 - late fees, declined payment fees, overdraft fees, returned check fees, customer service fees, and/or card cancellation or replacement fees;
 - late fees from transactions with third parties that were delayed due to fraud or card replacement;
 - unauthorized charges on credit, debit, or other payment cards that were not reimbursed;
 - parking expenses or other transportation expenses for trips to a financial institution to address fraudulent charges or receive a replacement payment card;
 - costs incurred obtaining credit freezes; and
 - other expenses that are reasonably attributable to the Security Incident that were not reimbursed.
- b) Cash Payment Claims: Claimants may also seek one of the following two *pro rata* cash payments:
 - California Cash Compensation (California Cash Payment): After the payment of Out-of-Pocket Loss Claims, the Settlement Administrator will make settlement payments of two pro rata shares (2x) of the remaining Net Settlement Fund for each Settlement Class Member who submits an Approved Claim and who resided in California at the time of the Data Security Incident. Settlement Class Members claiming the California Cash Payment must attest that they resided in California on June 30, 2022.
 - Cash Compensation (Pro Rata Cash Payment): After the payment of Out-of-Pocket Loss Claims, the Settlement Administrator will make settlement payments of a single pro rata share of the remaining Net Settlement Fund for each Settlement Class Member who submits an Approved Claim and who did not reside in California at the time of the Data Security Incident.

HOW DO YOU SUBMIT A CLAIM?

To receive a benefit under the Settlement, you must complete and submit a claim for that benefit (a “Claim”). Every Claim must be made on a Claim Form available at www.ILSDATABREACHSETTLEMENT.com or by calling 1-####-###-####. Claim Forms will also be sent to some Settlement Class Members as part of the postcard notice. Read the instructions carefully, fill out the Claim Form, provide the required documentation, and submit it according to the instructions on the Claim Form.

The Settlement Administrator will decide whether and to what extent any Claim made on each Claim Form is valid, including whether the person submitting a Claim is a Settlement Class Member eligible for compensation. The Settlement Administrator may require additional information. If you do not provide the additional information in a timely manner then the Claim will be considered invalid and will not be paid.

The Court will hold a Final Approval Hearing on [REDACTED], 2025 at [REDACTED] .m. EST, at the Wilkie D. Ferguson, Jr. United States Courthouse, 400 North Miami Avenue, Room 11-3, to decide whether to approve the Settlement. If the Court approves the Settlement, there may be appeals from that decision and resolving those can take time, perhaps more than a year. It also takes time for all the Claim Forms to be processed. Please be patient.

WHAT DOES THE DEFENDANT GET?

The Defendant gets a release from all claims covered by this Settlement. 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 Defendant and other persons (“Released Parties”) as to all claims (“Released Claims”) arising out of or relating to the Data Security Incident or that are otherwise released by the Settlement Agreement. This release is described in the Settlement Agreement, which is available at www.URL.com. Please review that Settlement Agreement. If you have any questions you can talk to the law firms listed below for free or you can talk to your own lawyer.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want to be part of this 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.

If you exclude yourself, you will not be entitled to receive any benefits from the Settlement, but you will not be bound by any judgment in this case.

Unless you exclude yourself, you give up any right to sue Defendant (and any other Released Parties) for the claims that this Settlement resolves. You must exclude yourself from the Settlement Class to start your own lawsuit or to be part of any different lawsuit relating to the claims in this case. If you want to exclude yourself, do not submit a Claim Form to ask for any benefit under the Settlement.

To exclude yourself, send a letter that says you want to be excluded or opt-out from the Settlement

in *In re Independent Living Systems Data Breach Litigation*, Master File No. 1:23-cv-21060 (Williams). The letter must: (a) state your full name, address, and telephone number; (b) contain your personal and original signature or the original signature of a person authorized by law to act on your behalf; and (c) state unequivocally your intent to be excluded from the Settlement. You must mail your exclusion request so that it is received or postmarked by [REDACTED], 2025, to:

ILS Settlement Administrator

Attn: Exclusion Request

[REDACTED] address

[REDACTED] address

Each Settlement Class Member may only opt-out on behalf of himself or herself, based upon a signed written notice. Mass or class opt-outs will not be valid.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you do not agree with the Settlement or some part of it or with Class Counsel's fee and expense request by submitting an objection. The Court will consider your views in its decision on whether to approve the Settlement and/or in awarding Class Counsel's fees and expenses. The Court can only approve or deny the Settlement and cannot change its terms. To object, timely written notice of an objection in the appropriate form must be received by the Settlement Administrator or postmarked on or before the Objection Deadline: [Month, Date], 2025. The address for the Settlement Administrator is: *In re Independent Living Systems Data Breach Litigation*, c/o Kroll Settlement Administration LLC, PO Box [REDACTED], [City, State Zip].

Your objection must be written and must include all of the following: (i) the objector's full name, address, telephone number, and email address (if any); (ii) information identifying the objector as a Settlement Class Member, including proof that the objector is a member of the Settlement Class (e.g., copy of notice or copy of original notice of the Security Incident); (iii) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable; (iv) the identity of all counsel representing the objector; (v) the identity of all counsel representing the objector who will appear at the Final Approval Hearing; (vi) a list of all Persons who will be called to testify at the Final Approval Hearing in support of the objection (vii) a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and (viii) the objector's signature and the signature of the objector's duly authorized attorney or other duly authorized representative, along with documentation setting forth such representation.

Objecting is telling the Court that you do not like the Settlement 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 or benefit from the Settlement. If you exclude yourself, then you have no basis to object because you are no longer a member of the Settlement Class and the case no longer affects you. If you submit both a valid objection and a valid request to be excluded, you will be deemed to have only submitted the request to be excluded.

THE LAWYERS REPRESENTING YOU

The Court appointed Stuart A. Davidson of Robbins Geller Rudman & Dowd LLP, Alexandra M.

Honeycutt of Milberg Coleman Bryson Phillips Grossman PLLC, and John A Yanchunis of Morgan & Morgan as Class Counsel. Mr. Davidson may be contacted at 225 NE Mizner Boulevard, Suite 720, Boca Raton, FL 33432; Email: sdavidson@rgrdlaw.com. Ms. Honeycutt may be contacted at 800 S. Gay Street, Suite 1100, Knoxville, TN 37929; Email: ahoneycutt@milberg.com. Mr. Yanchunis may be contacted at 201 N. Franklin Street, 7th Floor, Tampa, FL 33602; Email: jyanchunis@ForThePeople.com.

If you want to be represented by your own lawyer, then you may hire one at your own expense.

Class Counsel will ask the Court for an award for attorneys' fees up to one-third of the Settlement Fund (\$4,666,666.67), plus an award of reasonable litigation costs, expenses, and charges. Defendant has not agreed to the amount of any award of attorneys' fees, expenses, and charges. Any payment for attorneys' fees, expenses, and charges to Class Counsel will be made out of the Settlement Fund. Any such award would compensate 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.

Any award for attorneys' fees, expenses, and charges for Class Counsel must be approved by the Court. The Court may award less than the amount requested. Class Counsel's papers in support of final approval of the Settlement will be filed no later than [REDACTED], 2025 and their application for attorneys' fees, expenses, and charges will be filed no later than [REDACTED], 2025 and will be posted on the settlement website.

THE COURT'S FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing at [REDACTED] m. EST on [REDACTED], 2025, at the Wilkie D. Ferguson, Jr. U.S. Courthouse, 400 North Miami Avenue, Room 11-3, Miami, FL 33128. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are timely and valid objections, then 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 request for an award of attorneys' fees, expenses, and charges. 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 Class Counsel recommend checking www.ILSDATABREACHSETTLEMENT.com or calling 1-###-###-####.

Class Counsel will present the Settlement Agreement 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 a written 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.

You may ask the Court for permission to speak at the final approval hearing. To do so, you must file an objection according to the instructions in Question 16, including all the information required. Your objection must be **filed** with the Clerk of the Court no later than [REDACTED], 2025. See the information provided in response to Question No. 16 for further details on the requirements for submitting an objection to the Settlement.

IF YOU DO NOTHING

If you do nothing you will not get any money from this Settlement. If the Settlement is granted final approval and the judgment becomes final, then you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendant and the other Released Parties based on any of the Released Claims, including, but not limited to, any claims related to the Data Security Incident.

GETTING MORE INFORMATION

This notice summarizes the proposed Settlement. More details are in the Class Action Settlement Agreement (“Settlement Agreement”) itself. A copy of the Settlement Agreement is available at www.ILSDATABREACHSETTLEMENT.com. You may also call the Settlement Administrator with questions or to receive a Claim Form at 1-###-###-####.

This Notice is approved by the United States District Court for the Southern District of Florida. **DO NOT CONTACT THE COURT DIRECTLY IF YOU HAVE QUESTIONS ABOUT THE SETTLEMENT.** Please contact the Settlement Administrator or Class Counsel if you have any questions about the Settlement.

EXHIBIT C

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Master File No. 1:23-cv-21060-Williams

In re INDEPENDENT LIVING SYSTEMS DATA BREACH LITIGATION)	<u>CLASS ACTION</u>
)	
)	
)	
This Document Relates To:)	
)	
ALL ACTIONS.)	
)	
)	

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

Before this Court is Plaintiffs’ Unopposed Motion for Preliminary Approval of Class Action Settlement and Memorandum of Law in Support (“Motion”). The Court has reviewed the Motion and the Class Action Settlement Agreement (“Settlement Agreement”) between Plaintiffs and Defendant Independent Living Systems LLC (“ILS”). After reviewing Plaintiffs’ unopposed request for preliminary approval, this Court grants the Motion and preliminarily concludes that the proposed settlement (the “Settlement”) is fair, reasonable, and adequate.

IT IS HEREBY ORDERED THAT:

1. The Settlement Agreement,¹ including the proposed notice plan and forms of notice to the Settlement Class, the appointment of Plaintiffs David Asato, Katrina Berres, Ge Xiao Fang, Melinda Geleng, Mathew George, Maria Gomez, Dimitri Gutierrez, Chelsea Jensen, Rhianna

¹ All capitalized terms used in this Order shall have the same meanings as set forth in the Settlement Agreement.

McMullen, David Perez, Mark Salzano, Ernest Scoggan, and Ryan Smith as the Class Representatives, the appointment of Stuart A. Davidson of Robins Geller Rudman & Dowd LLP, Alexandra M. Honeycutt of Milberg Coleman Bryson Phillips Grossman PLLC, and John A. Yanchunis of Morgan & Morgan as Class Counsel for Plaintiffs and the Class, the approval of Kroll Settlement Administration LLC as the Settlement Administrator, the various forms of class relief provided under the terms of the Settlement Agreement and the proposed method of distribution of settlement benefits, are fair, reasonable, and adequate, subject to further consideration at the Fairness Hearing described below.

2. The Court does hereby preliminarily and conditionally approve and certify, for settlement purposes, the following Settlement Class:

All persons residing in the United States whose personal information was exposed or potentially accessed in the Data Breach at ILS.

3. Based on the information provided, the requirements for class certification are preliminary met: (a) the Settlement Class is sufficiently numerous; (b) there are common questions of law and fact; (c) the proposed Settlement Class Representatives' claims are typical of other members of the Settlement Class; (d) the proposed Class Representatives and Class Counsel will fully, fairly, and adequately protect the interests of the Settlement Class; (e) questions of law and fact common to members of the Settlement Class predominate over questions affecting only individual members for settlement purposes; and (f) a class action for settlement purposes is superior to other available methods for the fair and efficient adjudication of this Action.

4. The Court appoints Plaintiffs David Asato, Katrina Berres, Ge Xiao Fang, Melinda Geleng, Mathew George, Maria Gomez, Dimitri Gutierrez, Chelsea Jensen, Rhianna McMullen, David Perez, Mark Salzano, Ernest Scoggan, and Ryan Smith as the Class Representatives.

5. The Court appoints Stuart A. Davidson of Robbins Geller Rudman & Dowd LLP,

Alexandra M. Honeycutt of Milberg Coleman Bryson Phillips Grossman PLLC, and John A Yanchunis of Morgan & Morgan as Class Counsel.

6. The Court appoints Kroll Settlement Administration LLC as the Settlement Administrator.

7. A Final Approval Hearing shall be held before the Court on ____ [date] ____, 2025 at ____ [time] ____ for the following purposes:

- a. To determine whether the proposed Settlement is fair, reasonable, and adequate to the Class and should be approved by the Court;
- b. To determine whether to grant Final Approval, as defined in the Settlement Agreement, including conditionally certifying the proposed Class for settlement purposes only;
- c. To determine whether the notice plan conducted was appropriate;
- d. To determine whether the claims process under the Settlement is fair, reasonable and adequate and should be approved by the Court;
- e. To determine whether Class Counsel's request for an award of attorneys' fees of up to one third (1/3) of the Settlement Amount, and an award of litigation expenses and charges actually incurred, should be approved by the Court;
- f. To determine whether the settlement benefits are fair, reasonable, and adequate; and
- g. To rule upon such other matters as the Court may deem appropriate.

8. The Court approves, as to the form and content, the Notices (including the Short Form Notice). Furthermore, the Court approves the implementation of the Settlement Website and the proposed methods of mailing or distributing the notices substantially in the form as presented in the exhibits to the Motion for Preliminary Approval of Class Action Settlement, and finds that

such notice plan meets the requirements of Fed. R. Civ. P. 23 and due process, and is the best notice practicable under the circumstances, and shall constitute due and efficient notice to all persons or entities entitled to notice. The Settling Parties may make non-material and ministerial changes to the Notices to correct typos and complete the insertion of required dates without further order of Court, but any other revisions must be approved by the Court.

9. The Court preliminarily approves the following Settlement Timeline for the purposes of conducting the notice plan, settlement administration, claims processing, and other execution of the proposed Settlement:

SETTLEMENT TIMELINE

Event	Date
ILS provides CAFA Notice required by 28 U.S.C. §1715(b)	Within 10 calendar days after the filing of Plaintiffs’ Motion for Preliminary Approval
ILS to provide available contact information for Settlement Class Members per the terms of the Settlement Agreement	Within 7 calendar days after entry of Preliminary Approval Order
Notice Plan commences (“Notice Date”)	Within 30 calendar days after entry of Preliminary Approval Order
Compliance with CAFA Waiting Period under 28 U.S.C. §1715(d)	90 calendar days after the appropriate governmental offices are served with CAFA notice
Receipt or postmark deadline for Requests for Exclusion (opt outs) or Objections	60 calendar days after commencement of Notice Plan
Deadline to file Plaintiffs’ Motion for Final Approval and Motion for Attorneys’ Fees, Costs, and Expenses	No later than 14 calendar days prior to the Opt-Out/Objection Deadlines
Postmark/Filing deadline for members of the Settlement Class to file claims	90 calendar days after Notice Date
Deadline for Plaintiffs to file any reply	No later than 7 calendar days prior to the Final Approval Hearing
Final Approval Hearing	No earlier than 120 calendar days after Preliminary Approval Order; to be set by the Court
ILS’s Payment of the balance of the	No later than 30 calendar days after the

Settlement Amount Pursuant to Paragraph 2.1	Effective Date
Payment of Attorneys' Fees and Expenses	At least 10 calendar days after the payment of the balance of the Settlement Amount

10. In order to be a timely claim under the Settlement, a Claim Form must be either postmarked or received by the Settlement Administrator no later than 90 calendar days after the Notice Date. Class Counsel and the Settlement Administrator will ensure that all specific dates and deadlines are added to the Settlement Class Notice and posted on the Settlement Website after this Court enters this Order in accordance with the timeline being keyed on the grant of this Order.

11. All requests to opt out of the proposed Settlement must be received by the Settlement Administrator no later than 60 days after the Notice Date. Any request to opt out of the Settlement should, to the extent possible, contain words or phrases such as “opt-out,” “opt out,” “exclusion,” or words or phrases to that effect indicating an intent not to participate in the settlement or be bound by this Agreement). Settlement Class Members may only opt-out on behalf of themselves; mass or class opt-outs will not be valid. Opt-Out notices shall not be rejected simply because they were inadvertently sent to the Court or Class Counsel so long as they are timely postmarked or received by the Court, Kroll Settlement Administration LLC, or Class Counsel. Settlement Class Members who seek to Opt-Out shall receive no benefit or compensation under the Settlement Agreement. Settlement Class Members who do not Opt-Out from the Settlement Class shall be bound by the terms of the Settlement Agreement, to the extent it receives final approval, and any final judgment.

12. Settlement Class Members may submit an objection to the proposed Settlement or Class Counsel’s request for an award of attorneys’ fees and expenses. For an Objection to be valid, it must be sent to the Settlement Administrator, received or postmarked within 60 calendar days of the Notice Date and include each and all of the following:

- (i) the objector's full name, address, telephone number, and email address (if any);
- (ii) information identifying the objector as a Settlement Class Member, including proof that the objector is a member of the Settlement Class (e.g., copy of notice or copy of original notice of the Security Incident);
- (iii) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable;
- (iv) the identity of all counsel representing the objector, including the identity of all counsel who will appear at the Final Approval Hearing;
- (v) the identity of all counsel representing the objector who will appear at the Final Approval Hearing;
- (vi) a list of all Persons who will be called to testify at the Final Approval Hearing in support of the objection;
- (vii) a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and
- (viii) the objector's signature and the signature of the objector's duly authorized attorney or other duly authorized representative, along with documentation setting forth such representation.

Any Objection failing to include the requirements expressed above will be deemed to be invalid. Any Settlement Class Member objecting to the Settlement agrees to submit to any discovery related to the Objection.

13. All Settlement Class Members shall be bound by all determinations and judgments in this Action concerning the Settlement, including, but not limited to, the release provided for in the Settlement Agreement, whether favorable or unfavorable, except those who timely and validly request exclusion from the Settlement Class. The persons and entities who timely and validly request exclusion from the Settlement Class will be excluded from the Settlement Class and shall not have rights under the Settlement Agreement, shall not be entitled to submit Claim Forms, and shall not be bound by the Settlement Agreement or any Final Approval Order in this Action.

14. If the Settlement is finally approved, all Settlement Class Members who have not submitted a timely and proper Opt-Out notice shall release the Released Persons from all Released

Claims, as described in Section 9 of the Settlement Agreement, including, but not limited to, all claims arising out of or relating to the Data Security Incident (as defined in the Settlement Agreement) or the maintenance, storage, theft, or disclosure of any sensitive information of any Settlement Class Member.

15. Pending final determination of whether the Settlement Agreement should be approved, Plaintiffs and all Settlement Class Members are barred and enjoined from directly or indirectly (a) filing, commencing, prosecuting, intervening in, or participating in (as class members or otherwise), any lawsuit in any jurisdiction based on or relating to the Released Claims (as defined in the Settlement Agreement); or (b) organizing any Settlement Class Members into a separate class for purposes of pursuing as a purported class action any lawsuit based on or relating to any of the Released Claims (as defined in the Settlement Agreement).

16. The Court reserves the right to adjourn the date of the Final Approval Hearing without further notice to the potential Settlement Class Members, and retains jurisdiction to consider all further requests or matters arising out of or connected with the proposed Settlement. The Court may approve the Settlement, with such modification as may be agreed to by the Parties or as ordered by the Court, without further notice to the Settlement Class.

17. This Order shall become null and void, and shall be without prejudice to the rights of the Parties, all of whom shall be restored to their respective positions existing immediately before this Court entered this Order, if (a) the proposed Settlement is not finally approved by the Court, or does not become Final (as defined in the Settlement Agreement), pursuant to the terms of the Settlement Agreement; or (b) the Settlement Agreement is terminated or does not become Final, as required by the terms of the Settlement Agreement, for any other reason. In such event, and except as provided therein, the proposed Settlement and Settlement Agreement shall become

null and void and be of no further force and effect; the preliminary certification of the Settlement Class for settlement purposes shall be automatically vacated; neither the Settlement Agreement nor the Court's Orders, including this Order, shall be used or referred to for any purpose whatsoever; and the Parties shall retain, without prejudice, any and all objections, arguments, and defenses with respect to class certification, including the right to argue that no class should be certified for any purpose.

18. If the Settlement does not become final, this Order shall be of no force and effect and shall not be construed or used as an admission, concession, or declaration by or against ILS of any fault, wrongdoing, breach, or liability, or by or against Plaintiffs or the Settlement Class Members that their claims lack merit or that the relief requested in the Action is inappropriate, improper, or unavailable, or as a waiver by any party of any defenses or arguments it may have.

19. The Court authorizes the Parties to take all necessary and appropriate steps to implement the Settlement Agreement.

IT IS SO ORDERED.

Dated _____

HON. KATHLEEN M. WILLIAMS
UNITED STATES DISTRICT JUDGE

EXHIBIT D

ILS Data Breach Litigation
Settlement Administrator
PO Box XXXX
City, ST xxxxx-xxxx



Court-Approved Legal Notice
*In re Independent Living Systems Data Breach
Litigation*
Master File No. 1:23-cv-21060 (Williams)

**If you are a U.S. resident whose
personal information was exposed in
the Data Breach at Independent Living
Systems that occurred in June 2022,
you may be entitled to benefits from a
class action settlement.**

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

www.XXXXXXXXXXX.com
1-XXX-XXX-XXXX

<<MAIL ID>>
<<NAME 1>>
<<NAME 2>>
<<ADDRESS LINE 1>>
<<ADDRESS LINE 2>>
<<ADDRESS LINE 3>>
<<ADDRESS LINE 4>>
<<ADDRESS LINE 5>>
<<CITY, STATE ZIP>>
<<COUNTRY>>



A settlement has been reached in a class action lawsuit against Independent Living Systems LLC (“Defendant” or “ILS”) arising out of a data security incident Defendant experienced in June/July 2022, where an unauthorized third party accessed Defendant’s systems (“Data Security Incident”). The files potentially accessed in the Data Security Incident contained the following information, which varied by individual: (1) personally identifying information (“PII”) including names, Social Security Numbers, or taxpayer identification numbers, and; (2) protected health information (“PHI”), including medical information and health insurance information (“Sensitive Information”).

WHAT CAN I GET? This Settlement is for \$14,000,000, and provides for three types of cash payments: (i) up to \$5,000 in reimbursement for documented out-of-pocket losses; (ii) a pro rata cash payment; and (iii) a cash payment of two pro rata shares for qualifying California Settlement Class Members.

WHO IS INCLUDED? You received this notice because Defendant’s records show you are a member of the Settlement Class. The Settlement Class consists of all persons residing in the United States whose personal information was exposed or potentially accessed in the Data Security Incident at ILS. There are approximately 3.9 million class members.

CLAIM FORM. You must file a Claim Form to receive payment or other benefit as part of the Settlement. For Pro Rata Cash Payments or the California Cash Payment, you may use the attached tear off Claim Form or file a claim online. For all benefits, you can file a claim online or download a Claim Form at [www.\[website\].com](http://www.[website].com) and mail it, or you may call 1-800-XXX-XXXX and ask that a Claim Form be mailed to you. The claim deadline is [DATE].

OTHER OPTIONS. If you do not want to be legally bound by the settlement, you must exclude yourself by [DATE]. If you want to remain part of the Settlement, you may nevertheless object to it by [DATE]. A more detailed notice is available to explain how to exclude yourself or object. If you do nothing, you will not receive a Settlement payment and will lose the right to sue regarding the released claims. You will be bound by the Court’s decision because this is a conditionally certified class action. Please visit the website [www.\[website\].com](http://www.[website].com) or call the toll-free number [TELEPHONE #] for a copy of the more detailed notice.

WHO ARE THE ATTORNEYS? Class counsel is Stuart A. Davidson of Robbins Geller Rudman & Dowd LLP, Alexandra M. Honeycutt of Milberg Coleman Bryson Phillips Grossman PLLC, and John A Yanchunis of Morgan & Morgan. You do not have to pay these attorneys, as the attorneys’ fees and expenses will be paid exclusively from the Settlement Fund as awarded and approved by the Court. You may hire your own attorney at your own expense, but it is not required.

FINAL APPROVAL HEARING. On [DATE] at [TIME], at the Wilkie D. Ferguson, Jr. United States Courthouse, 400 North Miami Avenue, Room 11-3, the Court will hold a Final Approval Hearing to determine whether to approve the settlement, Class Counsel’s request for attorneys’ fees up to \$4,666,666.67, plus litigation expenses. You or your own lawyer, if you have one, may ask to appear and speak at the hearing (which may be held remotely) at your own cost, but it is not required. This notice is a summary. For more information, call or visit the website below.

This notice is a summary. Learn more about the Settlement at www.XXXXX.com, or by calling toll free 1-XXX-XXX-XXX.

<<UNIQUE ID>>

CLAIM FORM
Claims must be postmarked or submitted online no later than Month Day, 20YY.
Contact Information (Please fill in completely.)

Name: _____ Telephone Number: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Email Address: _____

Compensation for Documented Out-of-Pocket Expenses: You can receive reimbursement for up to \$5,000.00 for documented out-of-pocket expenses incurred as a result of the Data Security Incident. Because you must submit supporting documentation to be compensated for monetary losses, you cannot use this tear-off claim form. **To file a claim for out-of-pocket expenses, you must submit your claim online or return the full claim form via mail.**

- In addition to compensation for Out-of-Pocket Losses, you may select **one** of the following:
- ☐ Pro Rata Cash Payment: I wish to claim a pro rata cash payment. I understand this amount may increase or decrease depending upon the number of valid claims filed.
 - ☐ California Cash Payment: I swear and affirm under penalty of perjury that I was a resident of California on June 30, 2022 and that I am eligible for and wish to claim the California Cash Payment. I understand this amount may increase or decrease depending upon the number of valid claims filed.

Select one of the following payment methods: *PayPal____ *Venmo____ *Zelle____ Check____
*Please provide your email address or phone number associated with your PayPal, Venmo, or Zelle account:

By signing my name, I swear and affirm I am completing this Claim Form to the best of my personal knowledge.

Signature: Date:



ILS Data Breach Litigation
Settlement Administrator
PO Box XXXX
City, ST xxxxx-xxxx



EXHIBIT E

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Master File No. 1:23-cv-21060-Williams

In re INDEPENDENT LIVING SYSTEMS)	<u>CLASS ACTION</u>
DATA BREACH LITIGATION)	
_____)	
This Document Relates To:)	
)	
ALL ACTIONS.)	

**[PROPOSED] ORDER GRANTING FINAL APPROVAL
OF CLASS ACTION SETTLEMENT AND ATTORNEYS' FEES AND EXPENSES**

This matter comes before the Court on Plaintiffs' Unopposed Motion for Final Approval of Class Action Settlement (ECF __) and Plaintiffs' Motion for Attorneys' Fees and Expenses (ECF __) (collectively, the "Motions"). The Court has reviewed the Motions, and the Class Action Settlement Agreement (ECF __) ("Settlement Agreement") entered into between Plaintiffs David Asato, Katrina Berres, Ge Xiao Fang, Melinda Geleng, Mathew George, Maria Gomez, Dimitri Gutierrez, Chelsea Jensen, Rhianna McMullen, David Perez, Mark Salzano, Ernest Scoggan, and Ryan Smith ("Plaintiffs") and Defendant Independent Living System, LLC ("Defendant" or "ILS"), and it finds that the Motions should be **GRANTED**.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Court, for the purpose of this Final Approval Order, adopts the defined terms as set forth in the Settlement Agreement for any term not otherwise defined herein.

2. The Court finds that the Settlement Agreement is fair, reasonable, and adequate, as expressed further herein. The Court also finds the Settlement Agreement was entered into in good faith, at arm's-length, and without collusion. The Court approves and directs consummation of the Settlement Agreement.

3. The Court approves the Releases provided in the Settlement Agreement and orders that, as of the Effective Date, the Released Claims will be released as to the Released Parties.

4. The Court has and reserves jurisdiction over the Settlement and this Settlement Agreement, the Parties thereto, including the Settlement Class and for purposes of the Settlement and Settlement Agreement.

5. The Court finds that there is no just reason for delay of entry of final judgment with respect to the foregoing.

6. The Court grants final approval of the appointment of Stuart A. Davidson of Robbins Geller Rudman & Dowd LLP, Alexandra M. Honeycutt of Milberg Coleman Bryson Phillips Grossman PLLC, and John A. Yanchunis of Morgan & Morgan as Class Counsel.

7. The Court grants Plaintiffs' Motion for an Award of Attorneys' Fees, Expenses, and Service Awards (ECF ____). The Court awards Settlement Class Counsel \$_____ in attorneys' fees and \$_____ in litigation expenses, to be paid according to the terms of the Settlement Agreement. This amount of fees and reimbursement of expenses is fair and reasonable.

8. The Court grants final approval of the appointment of David Asato, Katrina Berres, Ge Xiao Fang, Melinda Geleng, Mathew George, Maria Gomez, Dimitri Gutierrez, Chelsea

Jensen, Rhianna McMullen, David Perez, Mark Salzano, Ernest Scoggan, and Ryan Smith as Class Representatives.

9. On _____, 2025, the Court entered an Order Granting Preliminary Approval of Class Action Settlement (ECF _____) (“Preliminary Approval Order”) that preliminarily approved the Settlement Agreement and set _____, 2025 as the Final Approval Hearing to consider the final approval of the Settlement Agreement and Plaintiffs’ Counsel’s Fees and Expenses.

10. The Court’s Preliminary Approval Order approved the Postcard Notice, Long Form Notice, Claim Form, and found the mailing, distribution, and publishing of the various notices as proposed met the requirements of Fed. R. Civ. P. 23 and due process, and was the best notice practicable under the circumstances, constituting due and sufficient notice to all persons entitled to notice.

11. The Court finds that the distribution of the Notices has been achieved pursuant to the Preliminary Approval Order and the Settlement Agreement, and that the Notice to Class Members complied with Fed. R. Civ. P. 23 and due process.

12. The Court finds that ILS has complied with the requirements of 28 U.S.C. §1715 regarding the CAFA Notice.

13. The Court certifies the following Class for settlement purposes only under Fed. R. Civ. P. 23(a) and 23(b)(3), subject to the Settlement Class exclusions set forth in the Settlement Agreement:

The Settlement Class: “All persons residing in the United States whose personal information was exposed or potentially accessed in the Data Breach at ILS.”

The Settlement Class specifically excludes all Persons who submit a timely and valid request for exclusion from the Settlement Class.

14. The Court finds that the Settlement Class defined above satisfies the requirements of Fed. R. Civ. P. 23(a) and (b)(3) for settlement purposes only in that (a) the Settlement Class of approximately 3.9 million individuals is so numerous that joinder of all Settlement Class Members would be impracticable; (b) there are issues of law and fact that are common to the Settlement Class; (c) the claims of the Class Representatives are typical of and arise from the same operative facts and seek similar relief as the claims of the Settlement Class Members; (d) the Class Representatives and Class Counsel have fairly and adequately protected the interests of the Settlement Class, as the Class Representatives have no interests antagonistic to or in conflict with the Settlement Class and has retained experienced and competent counsel to prosecute this matter on behalf of the Settlement Class; (e) questions of law or fact common to Settlement Class Members predominate over any questions affecting only individual members; and (f) a class action and class settlement are superior to other methods available for a fair and effective resolution of this controversy.

15. This Court, having considered the negotiation of, the terms of, and all of the materials submitted concerning the Settlement Agreement; having considered Plaintiffs' and the Settlement Class's likelihood of success both of surviving dispositive motions practice, certifying this action as a class action, and of prevailing on the claims at trial, including considering Independent Living Systems, LLC's likelihood of success of prevailing on one or more of its defenses; having considered the range of Plaintiffs' possible recovery (and that of the Settlement Class) and the complexity, expense, and duration of the Action; and having considered the substance and amount of opposition to the proposed settlement, it is hereby determined that:

- a. The terms of the Settlement Agreement were fairly and honestly negotiated;
- b. The outcome of the Litigation was in doubt when the Settlement was reached making the compromise under this Settlement reasonable under the circumstances;
- c. The value of immediate recovery by way of a \$14,000,000 non-reversionary common fund outweighs the risks of achieving possibly higher future relief that could occur, if at all, only after further protracted litigation and appeals;
- d. The Parties have in good faith determined the Settlement Agreement is in their respective best interests, including both Plaintiffs and Settlement Class Counsel determining that it is in the best interest of the Class Members;

16. Therefore, pursuant to Rule 23(e), the terms of the Settlement Agreement are finally approved as fair, reasonable, and adequate as to, and in the best interest of, the Settlement Class and each of the Settlement Class Members. Settlement Class Members who did not opt-out of the Settlement are bound by this Final Approval Order. The Settlement Agreement and its terms shall have *res judicata*, collateral estoppel, and all other preclusive effect in all pending and future lawsuits or other proceedings as to Released Claims and waivers applicable thereto.

17. ____ Settlement Class Members filed timely requests for exclusion. An anonymized list of those Settlement Class Members is attached to the Settlement Administrator's Declaration filed in support of the Motion for Final Approval (ECF ____). These persons are not bound by the terms of this finally approved settlement.

18. ____ Settlement Class Members objected to the Settlement. The Court, having considered the objections, finds that the objections are not valid, and hereby overrules the objections.

19. The Court approves the distribution and allocation of the Settlement Fund under the Settlement Agreement pursuant to the terms of the Settlement Agreement.

20. The terms of the Settlement Agreement and of this Final Order, including all exhibits thereto, shall be forever binding on, and shall have *res judicata* and preclusive effect in, all pending and future lawsuits maintained by Settlement Class Members, including Plaintiffs, as well as their heirs, executors and administrators, successors, and assigns.

21. The Releases, which are set forth in the Settlement Agreement (including Section 9) and which are also set forth below, are expressly incorporated herein in all respects and are effective as of the date of this Final Order. The Released Persons (as that term is defined below and in the Settlement Agreement) are forever released, relinquished, and discharged by all Settlement Class Members, including Class Representatives (as those terms are defined below and in the Settlement Agreement), from all Released Claims (as that term is defined below and in the Settlement Agreement).

(a) Release And Waiver Definitions

(i) “Released Persons” means ILS, ILS’s Related Entities, and ILS’s Customers;

(ii) “Customers” mean ILS’ business associates and customers, including all health care plans and companies for which ILS provides services.

(iii) “Related Entities” means ILS’ past or present parents, subsidiaries, affiliates, divisions, and related or affiliated entities of any nature whatsoever, whether direct or indirect, as well as each of ILS’ and these entities’ respective predecessors, successors, directors, managers, officers, employees, members, principals, agents, attorneys, insurers, and reinsurers.

Related Entities include, without limitation, any Person related to any such entity who is, was, or could have been named as a defendant in the Civil Actions and/or this Litigation.

(iv) “Release” or “Releases” means the releases of all Released Claims by all Settlement Class Members, including Class Representatives, against the Released Persons, as provided for in Section 9 of the Settlement Agreement.

(v) “Released Claims” shall collectively mean any and all claims, actions, causes of action, suits, debts, sums of money, payments, obligations, reckonings, promises, damages, penalties, attorney’s fees and costs, liens, judgments, demands, requests for relief, and any other forms of liability, both known and unknown (including Unknown Claims (defined below)), against any Released Person arising out of or relating to the Data Security Incident or the maintenance, storage, theft, or disclosure of any Settlement Class Member’s Sensitive Information. Released Claims include, but are not limited to, any causes of action under any California statute (including the California Consumer Privacy Act, the Confidentiality of Medical Information Act, and the California Unfair Competition Law), any causes of action under any similar statutes in other states, any causes of action for negligence, negligence per se, breach of contract, breach of implied contract, breach of fiduciary duty, breach of confidence, invasion of privacy, misrepresentation (whether fraudulent, negligent, or innocent), unjust enrichment, bailment, wantonness, failure to provide adequate notice pursuant to any breach notification statute or common law duty, or breach of any consumer protection statute, and any and all claims for damages, injunctive relief, disgorgement, declaratory relief, equitable relief, attorneys’ fees and expenses, pre-judgment interest, credit monitoring services, the creation of a fund for future damages, statutory damages, punitive damages, special damages, exemplary damages, restitution, the appointment of a receiver, or any other form of relief. Released Claims

shall not include the right of any Settlement Class Member or any of the Released Persons to enforce the terms of the settlement contained in this Settlement Agreement and shall not include the claims of Settlement Class Members who have timely excluded themselves from the Settlement Class.

(vi) “Settlement Class Member” means any Person who falls within the definition of the Settlement Class.

(vii) “Settling Parties” means, collectively, ILS and Class Representatives, individually and on behalf of the Settlement Class.

(viii) “Unknown Claims” means any of the Released Claims that any Settlement Class Member, including any of the Class Representatives, does not know or suspect to exist in his or her favor at the time of the release of the Released Persons that, if known by him or her, might have affected his or her settlement with, and release of, the Released Persons, or might have affected his or her decision not to object to and/or participate in this Settlement Agreement. With respect to any and all Released Claims, including Unknown Claims, the Settling Parties stipulate and agree that upon the date the Judgment becomes Final, the Class Representatives expressly shall have, and each of the other Settlement Class Members shall be deemed to have, and by operation of the Judgment shall have, waived the provisions, rights, and benefits conferred by California Civil Code §1542, as well as any and all provisions, rights, and benefits conferred by any law of any state, province, or territory of the United States which is similar, comparable, or equivalent to California Civil Code §1542, which 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.

Settlement Class Members, including the Class Representatives, and any of them, may hereafter discover facts in addition to, or different from, those that they now know or believe to be true with respect to the subject matter of the Released Claims, including Unknown Claims, but the Class Representatives expressly shall have, and each other Settlement Class Member shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever settled and released any and all Released Claims, including Unknown Claims. The Settling Parties acknowledge, and Settlement Class Members shall be deemed by operation of the Judgment to have acknowledged, that the foregoing waiver is a material element of the Settlement Agreement of which this release is a part.

(b) Released Claims of Settlement Class. Upon the entry of this Final Approval Order, each Settlement Class Member, including Class Representatives, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against all Released Persons. Further, upon the date the Judgment becomes Final, and to the fullest extent permitted by law, each Settlement Class Member, including Class Representatives, shall, either directly, indirectly, representatively, as a member of or on behalf of the general public, or in any capacity, be permanently barred and enjoined from commencing, prosecuting, or participating in any recovery in any action in this or any other forum (other than participation in the settlement as provided herein) in which any of the Released Claims is asserted.

(c) The Releases set forth herein and in the Settlement Agreement were bargained for and are a material element of the Settlement Agreement.

(d) The Releases do not affect the rights of Settlement Class Members who timely and properly submitted a request for exclusion from the settlement in accordance with the requirements of the Preliminary Approval Order and in Section 7 of the Settlement Agreement.

(e) The administration and consummation of the Settlement as embodied in the 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, enforcement of the Releases. The Court expressly retains jurisdiction in order to enter such further orders as may be necessary or appropriate in administering and implementing the terms and provisions of the Settlement Agreement.

(f) The Settlement Agreement shall be the exclusive remedy for any and all Settlement Class Members, except those who have properly requested exclusion (opted out), and the Released Persons shall not be subject to liability or expense for any of the Released Claims to any Settlement Class Member(s).

(g) The Releases shall not preclude any action to enforce the terms of the Settlement Agreement, including participation in any of the processes detailed therein. The Releases set forth herein and in the Settlement Agreement are not intended to include the release of any rights or duties of the Settling Parties arising out of the Settlement Agreement, including the express warranties and covenants contained herein.

21. All Settlement Class Members who did not timely exclude themselves from the Settlement Class are, from this day forward, hereby permanently barred and enjoined from directly or indirectly: (i) filing, commencing, prosecuting, intervening in, or participating in (as class members or otherwise), any lawsuit in any jurisdiction based on or relating to the claims and causes of action, or the facts and circumstances relating thereto, in the Litigation and/or the

Released Claims (as that term is defined above and in the Settlement Agreement); or (ii) organizing any Settlement Class Members into a separate class for purposes of pursuing as a purported class action any lawsuit (including by seeking to amend a pending complaint to include class allegations, or seeking class certification in a pending action) based on or relating to any of the Released Claims or the facts and circumstances relating thereto.

22. Settlement Class Members shall dismiss with prejudice all claims, actions, or proceedings that have been brought by any Settlement Class Member in any other jurisdiction and that have been released pursuant to the Settlement Agreement and this Final Order and Judgment.

23. This Final Approval Order and the Settlement Agreement (including the exhibits thereto) may be filed in any action against or by any Released Person (as that term is defined herein and the Settlement Agreement) to support a defense of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any theory of claim preclusion or issue preclusion or similar defense or counterclaim.

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

25. This Final Approval Order, and all statements, documents, or proceedings relating to the Settlement Agreement shall not be offered or received or be admissible in evidence in any action or proceeding, or be used in any way as an admission or concession or evidence of any liability or wrongdoing by ILS, or that Plaintiffs, any Settlement Class Member, or any other

person has suffered any damage due to the Security Incident. Notwithstanding the above, the Settlement Agreement and this Final Approval Order may be filed in any action by ILS, Settlement Class Counsel, or Settlement Class Members seeking to enforce the Settlement Agreement or the Final Approval Order.

26. The Settlement Agreement and Final Approval Order shall not be construed or admissible as an admission by ILS that Plaintiffs' claims or any similar claims are suitable for class treatment.

27. If the Effective Date, as defined in the Settlement Agreement, does not occur for any reason, this Final Approval Order and the Preliminary Approval Order shall be deemed vacated, and shall have no force and effect whatsoever; the Settlement Agreement shall be considered null and void; all of the Parties' obligations under the Settlement Agreement, the Preliminary Approval Order, and this Final Approval Order and the terms and provisions of the Settlement Agreement shall have no further force and effect with respect to the Parties and shall not be used in the Action or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of the Settlement Agreement shall be treated as vacated *nunc pro tunc*, and the Parties shall be restored to their respective positions in the Action, as if the Parties had never entered into the Settlement Agreement (without prejudice to any of the Parties' respective positions on the issue of class certification or any other issue). In such event, the Parties will jointly request that all scheduled Litigation deadlines be reasonably extended by the Court so as to avoid prejudice to any Party or Party's counsel.

28. This Litigation, including all individual claims and class claims presented herein, is hereby dismissed on the merits and with prejudice against Class Representatives and all other Settlement Class Members, without fees or costs to any party except as otherwise provided herein.

IT IS SO ORDERED this ____ day of _____, 2025

Hon. Kathleen M. Williams
United States District Court Judge

EXHIBIT F

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Master File No. 1:23-cv-21060-Williams

In re INDEPENDENT LIVING SYSTEMS)	<u>CLASS ACTION</u>
DATA BREACH LITIGATION)	
_____)	
This Document Relates To:)	
ALL ACTIONS.)	
_____)	

[PROPOSED] FINAL JUDGMENT

IT IS on this ____ day of _____, HEREBY ADJUDGED AND DECREED
PURSUANT TO FEDERAL RULES OF CIVIL PROCEDURE 23 and 58 AS FOLLOWS:

(1) On this date, the Court entered an Order Granting Final Approval Of Class Action Settlement (“Final Approval Order”) (ECF ____); and

(2) For the reasons stated in the Court’s Final Approval Order, judgment is entered in accordance with the Final Approval Order, and this action, including all individual claims and class claims presented herein, is hereby dismissed on the merits and with prejudice against Class Representatives and all other Settlement Class Members, without fees or costs to any party except as otherwise provided in the Final Approval Order.

IT IS SO ORDERED this ____ day of _____, 2025

Hon. Kathleen M. Williams
United States District Court Judge

Master File No. 1:23-cv-21060-Williams

This Settlement Agreement, dated as of March 21, 2025, is made and entered into by and among the following **Settling Parties** (defined below): (i) David Asato, Michael Berg, Katrina Berres, Ge Xiao Fang, Melinda Geleng, Mathew George, Maria Gomez, Dimitri Gutierrez, Chelsea Jensen, Rhianna McMullen, David Perez, Mark Salzano, Ernest Scoggan, and Ryan Smith (**“Plaintiffs”** or **“Class Representatives”**), individually and on behalf of the **Settlement Class** (defined below), by and through their counsel of record, Stuart A. Davidson of Robbins Geller Rudman & Dowd LLP, Alexandra M. Honeycutt of Milberg Coleman Bryson Phillips Grossman PLLC, and John A. Yanchunis of Morgan & Morgan (**“Proposed Co-Lead Class Counsel”**) on the one hand; and (ii) Independent Living Systems LLC (**“ILS”** or **“Defendant”**), by and through its counsel of record, Gregory T. Parks, Brian M. Ercole, and Melissa M. Coates of Morgan, Lewis & Bockius LLP (**“Defendant’s Counsel”**) on the other hand. This Settlement Agreement is subject to Court approval and is intended by the Settling Parties to fully, finally, and forever resolve, discharge, and settle the **Litigation** (defined below) and **Released Claims** (defined below), upon and subject to the terms and conditions herein.

RECITALS

WHEREAS, ILS is a leading provider of clinical and third-party administrative services to healthcare organizations across the country, is a Florida-based limited liability company, and is registered to do business in Florida, with its principal place of business in Florida;

WHEREAS, in the course and scope of providing its services to healthcare organizations, ILS receives the personal identifiable information (**“PII”**) and personal health information (**“PHI”**) for individuals who are members of health plans to which ILS provides services;

EXHIBIT 2

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Master File No. 1:23-cv-21060-Williams

In re INDEPENDENT LIVING SYSTEMS)	<u>CLASS ACTION</u>
DATA BREACH LITIGATION)	
_____)	
This Document Relates To:)	
)	
ALL ACTIONS.)	
_____)	

**JOINT DECLARATION OF PROPOSED CO-LEAD CLASS COUNSEL STUART A.
DAVIDSON, ALEXANDRA M. HONEYCUTT, AND JOHN A. YANCHUNIS IN
SUPPORT OF PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION SETTLEMENT**

Master File No. 1:23-cv-21060-Williams

We, Stuart A. Davidson of Robbins Geller Rudman & Dowd LLP, Alexandra M. Honeycutt of Milberg Coleman Bryson Phillips Grossman PLLC, and John A. Yanchunis of Morgan & Morgan, Proposed Co-Lead Class Counsel in this action (“Proposed Co-Lead Class Counsel” or “Co-Lead Class Counsel”), hereby submit this Declaration in connection with Plaintiffs’ David Asato, Katrina Berres, Ge Xiao Fang, Melinda Geleng, Mathew George, Maria Gomez, Dimitri Gutierrez, Chelsea Jensen, Rhianna McMullen, David Perez, Mark Salzano, Ernest Scoggan, and Ryan Smith (collectively, “Plaintiffs” or “Class Representatives”) Unopposed Motion for Preliminary Approval of Class Action Settlement with Independent Living Systems LLC (collectively, in the singular, “ILS” or “Defendant”), and declare under penalty of perjury as follows:

I. PROCEDURAL HISTORY AND SETTLEMENT NEGOTIATIONS

1. On or around July 5, 2022, Defendant became aware of a malicious third-party who accessed and acquired files on Defendant’s computer network, and who made certain files inaccessible to Defendant (*i.e.*, the “Data Security Incident”) and compromised certain Sensitive Information belonging to impacted individuals. Defendant notified impacted individuals of the Data Security Incident in or around March 14, 2023. On March 17, 2023, the first class action lawsuit was filed against Defendant, following which several other actions were filed against Defendant in quick succession, each arising out of the Data Security Incident (collectively, the “Civil Actions”).

2. On July 31, 2023, the Civil Actions were consolidated before the Honorable United States District Judge Kathleen M. Williams and United States Magistrate Judge Lisette M. Reid in the United States District Court for the Southern District of Florida under a single civil action

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number. On November 13, 2023, Plaintiffs filed their operative Complaint on behalf of a putative Nationwide Class. *See* ECF 44.

3. Defendant moved to dismiss the Complaint on December 13, 2023 (ECF 48), which Plaintiffs opposed. *See* ECF 53. On May 14, 2024, Defendant moved to stay discovery pending resolution of its motion to dismiss. *See* ECF 64. Plaintiffs opposed a stay of discovery (ECF 65), and the Court denied Defendant's motion on June 17, 2024. *See* ECF 67.

4. Between April 2024 and September 2024, the Settling Parties engaged in significant discovery including, but not limited to, Plaintiffs serving Defendant with three sets of requests for production of documents and one set of interrogatories, Plaintiffs serving nine separate subpoenas on third-parties involved in Defendant's data security or the Data Security Incident, and Defendant serving document requests and interrogatories on all Plaintiffs. Moreover, we worked with experts on issues relating to liability and damages to lay the ground work for a motion for class certification, and ultimately the trial of the case.

5. On September 10, 2024, the Settling Parties jointly moved the Court to stay the Litigation pending the Parties' November 6, 2024 mediation before Mr. Seth Aronson of Phillips ADR – a highly respected mediator with substantial experience with data privacy class actions. *See* ECF 77. The Court granted the Parties' motion. *See* ECF 78.

6. On November 6, 2024, the Settling Parties held an arm's-length, all-day mediation with Mr. Aronson. Although the Settling Parties made progress, no resolution was reached. However, the Settling Parties agreed that another effort to resolve the case through mediation was appropriate, and jointly requested the Court continue the stay pending further mediation efforts. *See* ECF 81.

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7. On December 11, 2024, the Settling Parties then engaged in their second attempt at mediation, which was another full-day mediation session conducted by Mr. Aronson. Over the course of the day, the Settling Parties engaged in arm's-length, hard-fought negotiations, which ultimately led to agreements to the mediator's proposal. The Settling Parties reached an agreement in principle on December 18, 2024, the terms of which were later finalized by way of the Class Action Settlement Agreement ("Settlement Agreement" or "SA") and its attached exhibits. The Settlement Agreement was executed, subject to preliminary and final approval by the Court.

II. THE SETTLEMENT AND ITS BENEFITS

7. The Settlement Agreement negotiated on behalf of the Settlement Class provides for the Settlement Amount of Fourteen Million Dollars (\$14,000,000.00) ("Settlement Amount") to be paid by wire transfer, along with any accrued interest, into the Settlement Fund. SA ¶¶ 1.38, 2.1. The Settlement Agreement provides that the Settlement Fund shall be the sole source of monetary funds for the payment of Settlement Benefits to Settlement Class Members as follows: (a) Pro Rata Cash Payments from Net Settlement Fund; and (b) reimbursement for Out-of-Pocket losses up to \$5,000. SA ¶¶ 3.1-3.7. Any Residual Funds shall be distributed to the Alzheimer's Association, a non-profit, cy pres recipient. SA ¶ 3.8. The Settlement Benefits are detailed as follows:

8. Out-of-Pocket Loss Claims. Settlement Class Members may claim reimbursement up to a maximum amount of \$5,000 for documented Out-of-Pocket Losses, that more likely than not resulted from the Data Security Incident, subject to review and discretion of the Settlement Administrator. SA ¶ 3.3.

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9. Pro Rata Cash Payment Claims. All Settlement Class Members who submit an Approved Claim, may request one form of Cash Payment (either California Cash Payment or Pro Rata Cash Payment) (the “Cash Payment”) after they submit a Claim Form to the Settlement Administrator by the deadline. SA ¶3.2. One Cash Payment will be issued per Approved Claim and will be paid from the Net Settlement Fund. *Id.*

10. California Cash Compensation (California Cash Payment): After the payment for Out-of-Pocket Loss Claims, the Settlement Administrator will issue California Cash Payments from the remaining Net Settlement Fund, consisting of two pro rata shares (2x) of the Remaining Fund for each Settlement Class Member residing in California at the time of the Data Security Incident. *Id.* Settlement Class Members claiming the California Cash Payment must attest that they resided in California on June 30, 2022. *Id.* For the avoidance of doubt, the intention of awarding two pro rata shares to those validly claiming the California Cash Payments is to provide those approved claimants with double the amount of the Pro Rata Cash Payment, in recognition of the potential value of the California statutory claims alleged in this Litigation. *Id.*

11. Cash Compensation (Pro Rata Cash Payment): After the payment of Out-of-Pocket Loss Claims, the Settlement Administrator will issue Pro Rata Cash Payments of a single pro rata share of the remaining Net Settlement Fund for each Settlement Class Member who did not reside in California at the time of the Data Security Incident. *Id.*

12. Residual Funds. If any monies remain in the Net Settlement Fund (due to returned or uncashed checks or otherwise) more than one hundred twenty (120) calendar days after the distribution of Settlement Payments described above, and it is not economically feasible to distribute the residual funds to class members who have filed claims and whose claims have been

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allowed, then the Settling Parties will distribute the residual funds to cy pres recipient the Alzheimer's Association. SA ¶3.8.

13. Business Practices Changes. Defendant represented that, since the Data Security Incident and in part as a result of the Litigation, it implemented certain Business Practice Changes that resulted in a new incremental spend of more than \$2 million. SA ¶3.9. In addition, Defendant represents that, in part as a result of the Litigation, it maintained those Business Practice Changes. *Id.* As part of the Settlement of the Litigation, Defendant will prepare for Co-Lead Class Counsel a confidential statement subject to the protective order in the Litigation that outlines the Business Practice Changes already implemented, which can be submitted to the Court, in camera, if required *Id.*

14. Fees, Costs and Expenses. A separate request will be made to the Court for an award of reasonable attorneys' fees, expressed as a percentage of the Settlement Amount, and for an award of Plaintiffs' counsel's reasonable expenses and charges incurred in prosecuting and settling the Litigation. SA ¶10.1.

III. THE NOTICE PLAN

15. Subject to the Court's approval, the Parties have agreed to use Kroll Settlement Administration LLC as the Settlement Administrator in this case, a company experienced in administering class action settlements generally and specifically those of the type provided for and made in data breach litigation. *Id.* at ¶1.37; *see also* Notice Plan.

16. Settlement Class Notice. The Settlement Administrator shall be responsible for implementing and executing the Notice Plan by mailing via first-class U.S. mail or emailing to all Settlement Class Members for whom mailing addresses or email addresses are available, the Short

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Notice, and shall commence notice through a media campaign expected to reach approximately 88% of Settlement Class Members. SA ¶6.1. Any Settlement Class Member that does not file a timely and adequate objection as per the process laid out in the Settlement Agreement, waives the right to object or to be heard at the Final Approval Hearing and shall be forever barred from making any objection to the Settlement, unless otherwise ordered by the Court. SA ¶6.2.

17. Opt-Out Procedures. Each Person wishing to opt-out of the Settlement Class shall individually sign and timely submit written notice of such intent to the designated postal address established by the Settlement Administrator, per the process laid out in the Settlement Agreement. SA ¶7.1. Defendant may, in its sole discretion, terminate the Agreement if more than a specified number of Settlement Class Members submit valid and timely requests to exclude themselves from the Settlement, as agreed to by the Settling Parties in a separate writing. SA ¶7.4.

18. Objection Procedures. Each Settlement Class Member desiring to object to the Settlement Agreement or Proposed Co-Lead Counsel's Fee Application shall submit a timely written notice of his or her objection as per the procedure laid out in the Settlement Agreement. SA ¶8.1. A Settlement Class Member who files an objection waives the right to opt-out, and vice versa. SA ¶8.4.

19. Claims Process. The timing of the claims process is structured to ensure that all Settlement Class Members have adequate time to review the terms of the Settlement Agreement, make a claim, or decide whether they would like to opt-out or object. SA ¶4. Settlement Class Members with Approved Claims shall be able to select from a variety of online payment options. *Id.* The Claim Form, attached to the Settlement Agreement as Exhibit A, is written in plain language to facilitate Settlement Class Members' ease in completing it. *Id.*

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20. The timing of the claims process and deadlines is structured to ensure that all Settlement Class Members have ample opportunity to review the terms of the Settlement Agreement and the allegations in the Complaint and decide whether they would like to make a claim under the settlement, opt-out, or object.

IV. COUNSEL'S QUALIFICATIONS

A. Stuart A. Davidson of Robbins Geller Rudman & Dowd LLP

21. Stuart Davidson is a partner in Robbins Geller Rudman & Dowd LLP's Boca Raton office. His practice focuses on complex consumer class actions, including cases involving deceptive and unfair trade practices, privacy and data breach issues, and antitrust violations. He has served as class counsel in some of the nation's most significant privacy and consumer cases, including: *In re Facebook Biometric Information Privacy Litig.*, No. 3:15-cv-03747-JD (N.D. Cal.) (\$650 million recovery in a cutting-edge class action concerning Facebook's alleged privacy violations through its collection of user's biometric identifiers without informed consent); *In re Yahoo! Inc. Customer Data Sec. Breach Liti.*, No. 5:16-md-02752-LHK (N.D. Cal.) (\$117.5 million recovery in the largest data breach in history); *Kehoe v. Fidelity Federal Bank & Trust*, No. 9:03-cv-80593-DTKH (S.D. Fla.) (\$50 million recovery in Driver's Privacy Protection Act case on behalf of half-a-million Florida drivers against a national bank); *In re Sony Gaming Networks & Customer Data Sec. Breach Litig.*, No. 3:11-md-02258-AJB-MDD (S.D. Cal.) (settlement valued at \$15 million concerning the massive data breach of Sony's PlayStation Network); and *In re Solara Medical Supplies Data Breach Litig.*, No. 3:19-cv-02284-H-KSC (S.D. Cal.) (\$5 million all-cash settlement for victims of healthcare data breach). For more information, see Exhibit A to Plaintiffs' Joint Motion to Appoint Interim Class Counsel at ECF 31-2.

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B. Alexandra M. Honeycutt of Milberg Coleman Bryson Phillips Grossman PLLC

22. Alexandra M. Honeycutt is a senior associate with Milberg Coleman Bryson Phillips Grossman PLLC, and she primarily works in the firm's Data Privacy and Cybersecurity Practice Group. In 2022, Ms. Honeycutt was appointed co-lead counsel in *In Re Lincare Holdings Inc. Data Breach Litig.*, No. 8:22-cv-1472- TPB-AAS (M.D. Fla.), where she helped secure a \$7.25 million recovery on behalf of nearly three million patients. In 2023, Ms. Honeycutt was appointed co-lead settlement counsel in *In re Advocate Aurora Health Pixel Litig.*, No. 2:22-cv-1253 (E.D. Wisc.), where she obtained a \$12.225 million recovery on behalf of 2.5 million patients in a cutting edge case involving the use of tracking technologies on hospital website. Ms. Honeycutt has also spent significant time working on *Boone v. Snap, Inc.*, No. 2022LA000708 (18th Cir. DuPage Cnty., Ill.), where she helped obtain a \$35 million recovery on behalf of three million consumers in a privacy class action, and *Parris, v. Meta Platforms, Inc.*, No. 2023LA000672 (18th Cir. DuPage Cnty., Ill.), where she helped obtain a \$68.5 million recovery for four million consumers in a privacy class action. For more information, see Exhibit B to Plaintiffs' Joint Motion to Appoint Interim Class Counsel at ECF 31-3.

C. John A. Yanchunis of Morgan and Morgan Complex Litigation Group

23. John A. Yanchunis leads Morgan & Morgan's class action group. Morgan & Morgan is America's largest personal injury law firm with over 900 lawyers in offices throughout the United States. Its depth as a trial firm, and its self-funded financial resources, allow it to undertake the largest and most significant cases throughout the country. Mr. Yanchunis — whose career as a trial lawyer began over 42 years ago following the completion of a two-year clerkship

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with United States District Judge Carl O. Bue, Southern District of Texas (now deceased) — has efficiently and expeditiously led many privacy related Multidistrict Litigation (MDL) and non-MDL class action proceedings, including as Lead or Co-Lead Counsel in some of the largest privacy class actions. He has focused his practice on class action litigation for over 28 years. Mr. Yanchunis began his work in privacy litigation in 1999 with the filing of *In re Doubleclick Inc. Privacy Litig.*, 154 F. Supp. 2d 497 (S.D.N.Y. 2001), alleging privacy violations based on the placement of cookies on hard drives of internet users. Beginning in 2003, he served as Co-Lead Counsel in the successful prosecution and settlement of privacy class action cases involving the protection of privacy rights of more than 200 million consumers under the Driver's Protection Privacy Act ("DPPA") against the world's largest data and information brokers, including Experian, R.L. Polk, Acxiom, and Reed Elsevier (which owns Lexis/Nexis). *See Fresco v. Auto. Directions, Inc.*, No. 03-61063-JEM (S.D. Fla.), and *Fresco v. R.L. Polk*, No. 07-cv-60695-JEM (S.D. Fla.). Subsequently, he also served as Co-Lead Counsel in the DPPA class cases, *Davis v. Bank of Am.*, No. 05-cv-80806 (S.D. Fla.) (\$10 million class settlement), and *Kehoe v. Fidelity Fed. Bank & Trust*, No. 03-cv-80593 (S.D. Fla.) (\$50 million class settlement). For more information, *see* Exhibit C to Plaintiffs' Joint Motion to Appoint Interim Class Counsel at ECF 31-4.

V. COUNSEL'S RECOMMENDATION

24. Our collective years of experience in representing individuals in complex class actions — including data breach and privacy class actions — informed Plaintiffs' settlement position, and the needs of Plaintiffs and the Settlement Class. As Proposed Co-Lead Class Counsel, we believe in the merits of the claims brought in this case, but we are also aware that a successful

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outcome is uncertain and would be achieved only after prolonged, arduous litigation with the attendant risk of drawn-out appeals. We have fully investigated the facts and legal claims; prepared the complaint; conducted informal discovery and negotiated and reached an Agreement after two rounds of mediation at arm's-length, in good faith, and without collusion. Based upon our collective substantial experience, it is our opinion that the settlement of this matter provides significant relief to the Settlement Class as it is well within the range of other data breach settlements in the relief that it provides and addresses the common types of repercussions sustained by consumers following a data breach and thus warrants the Court's preliminary approval as the Settlement is fair, reasonable, and adequate.

25. The Agreement was reached following adversarial arm's-length negotiations, conducted in good faith and without collusion, with full knowledge of the facts, the law, and the inherent risks in the Litigation, and with the active involvement of the Plaintiffs. After the settlement was reached, the Settling Parties worked diligently to: (a) finalize the settlement documentation, including the Settlement Agreement and accompanying exhibits, and Plaintiffs' Motion for Preliminary Approval with this declaration in support; and (b) solicit bids and mutually agree on a Settlement Administrator.

26. The Settlement Agreement's terms are designed to address the alleged harms caused by the data breach, including by providing reimbursement for Out-of-Pocket losses, as well as Pro Rata Cash Payment awards for California and non-California residents, and a commitment by Defendants to make meaningful Business Practice Changes to ensure business practice enhancements to adequately secure its systems and environments, presently and in the future.

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27. This result is particularly favorable given the risks of continued litigation. A settlement today not only avoids the risks of continued litigation, but it also provides benefits to members of the Settlement Class now as opposed to after years of risky litigation.

28. The Settlement Agreement's benefits unquestionably provide a favorable result to the members of the Settlement Class, placing the Settlement Agreement well within the range of possible final approval and satisfying the requirements for preliminary approval; therefore, the Court should grant preliminary approval.

29. Additionally, the Notice Plan contemplated by the Settlement Agreement meets all due process requirements and provides the best practicable method to reach the Settlement Class Members and is consistent with other class action notice programs that have been approved by various courts for similarly situated matters. The notices themselves are clear and straightforward. They define the Settlement Class; clearly describe the options available to Settlement Class Members and the deadlines for taking action; describe the essential terms of the settlement and apprise the Settlement Class of the pendency of the case; the terms of the Settlement; our request for an award of attorney's fees, costs, and expenses; Settlement Class Members' rights to opt-out or object to the Settlement; describe the date, time, and place of the Final Fairness Hearing; and prominently display our address and phone number.

30. The Notice is designed to be the best practicable under the circumstances, appraises Settlement Class Members of the pendency of the action, and gives them an opportunity to object or exclude themselves from the Settlement, with adequate time to ensure that all Settlement Class Members have adequate time to review the terms of the Settlement Agreement, compile documents supporting their claim, and decide whether they would like to object or opt-out. *See generally*

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Declaration of Scott M. Fenwick of Kroll Settlement Administration LLC in Connection with Preliminary Approval of Settlement, attached hereto as **Exhibit A**.

31. Based upon our decades of work litigating complex class actions, we ask the Court to grant preliminary approval of the Settlement Agreement and enter the proposed Preliminary Approval Order attached to the Settlement Agreement and filed with this motion.

VI. PLAINTIFFS

32. Plaintiffs have demonstrated that they are well-suited to represent the Settlement Class. They (a) have a genuine personal interest in the outcome of the case; (b) selected well-qualified Proposed Co-Lead Class Counsel; (c) produced information and documents to us to permit investigation and development of the complaints; (d) have been available as needed throughout the Litigation; and (e) have been monitoring the Litigation. These Plaintiffs, like all Settlement Class Members, have been alleged victims of the same Data Security Incident, and thus have common interests with the Settlement Class. Moreover, they have ably represented the Settlement Class, maintaining contact with us, assisting in the investigation of the case, reviewing the material terms of the Settlement Agreement, remaining available for consultation throughout the settlement negotiations and answering our many questions.

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We declare that this has been signed under penalty of perjury of the United States of America that the foregoing is true and correct.

Executed on March 28, 2025.

s/ Stuart A. Davidson

Stuart A. Davidson

s/ Alexandra M. Honeycutt

Alexandra M. Honeycutt

s/ John A. Yanchunis

John A. Yanchunis

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Master File No. 1:23-cv-21060-Williams

In re INDEPENDENT LIVING SYSTEMS
DATA BREACH LITIGATION

**DECLARATION OF
PAUL V. FERRUZZI OF KROLL
SETTLEMENT ADMINISTRATION
LLC IN CONNECTION WITH
PRELIMINARY APPROVAL OF
SETTLEMENT**

I, Paul Ferruzzi, hereby declare:

1. I am a Director of Kroll Settlement Administration LLC (“Kroll”),¹ the proposed Settlement Administrator to be appointed in the above-captioned case, whose principal office is located at One World Trade Center, 285 Fulton Street, 31st Floor, New York, New York 10007. I am over 21 years of age and am authorized to make this declaration on behalf of Kroll and myself. The following statements are based on my personal knowledge and information provided by other experienced Kroll employees working with me and/or under my general supervision. This declaration is being filed in connection with preliminary approval of the settlement.

2. Kroll has extensive experience in class action matters, having provided services in class action settlements involving antitrust, securities, labor and employment, consumer, privacy, and government enforcement matters. Kroll has provided class action services in over 3,000 settlements varying in size and complexity over the past 50 years.

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Settlement Agreement (as defined below).

3. Kroll is prepared to provide a full complement of notification and settlement administration services in connection with that certain Class Action Settlement Agreement (the “Settlement Agreement”) entered into this Litigation, including dissemination of notice by mail, email, an online media campaign, and through the use of a Settlement Website to be created in connection with this matter.

4. It is Kroll’s understanding that it will be provided with a list of Settlement Class Members pursuant to the Settlement Agreement, which will contain a combination of full names, current physical addresses (to the extent available), email addresses (to the extent available), and other data elements pertinent to the administration of the settlement.

5. The Notice Plan as described below, outlined in the Settlement Agreement, and as expected to be implemented by Kroll, contemplates a list of Settlement Class Members to be provided by Defendant that will allow for direct notice to reach approximately 65% of Settlement Class Members through direct mail and email. Based upon information provided by Proposed Co-Lead Class Counsel and Defendant’s Counsel (collectively, “Counsel,”) and assuming data received is relatively up to date, Kroll estimates an average undeliverable rate of direct notice of no more than 10%. Combined with the proposed online media campaign, Kroll projects notice will likely reach 88% of proposed Settlement Class Members. These assumptions are subject to the accuracy and quality of the data received. This reach rate is consistent with other court-approved, best-practicable notice programs and Federal Judicial Center Guidelines, which state that a notice plan that reaches over 70% of targeted class members is considered a high percentage and the “norm” of a notice campaign.²

CAFA Notice

6. On behalf of the Defendant, Kroll will provide notice of the proposed settlement pursuant to the Class Action Fairness Act, 28 U.S.C. § 1715(b). At Defendant’s Counsel’s direction, Kroll will send the CAFA Notice, which identifies how to access required documents

² Barbara Rothstein and Thomas Willging, Federal Judicial Center Managing Class Action Litigation: A Pocket Guide for Judges, at 27 (3d ed. 2010).

relating to the settlement, via first-class certified mail to (a) the Attorney General of the United States and (b) the applicable state Attorneys General. The CAFA Notice will direct the recipients to the website www.CAFANotice.com, a site that will contain all the documents relating to the settlement referenced in the CAFA Notice.

Notice by Email

7. In preparation for disseminating Short Notices by email (the “Email Notice”), Kroll will work with Counsel to finalize the language for the Email Notice. Once the Email Notice is approved, Kroll will create an Email Notice template in preparation for the email campaign. Kroll will prepare a file with all available Settlement Class Member email addresses and upload the file to an email campaign platform. Kroll will prepare email proofs for Counsel’s review and final approval. The proofs/test emails for approval will include the body of the email and subject line. Once the proofs/test emails are approved, the email campaign will begin as directed in the Settlement Agreement.

8. Kroll will track and monitor emails that are rejected or “bounced back” as undeliverable. At the conclusion of the email campaign, Kroll will provide a report with the email delivery status of each record. The report will include the number of records that had a successful Email Notice delivery, and a count of the records where delivery failed. Kroll will also update its administration database with the appropriate status of the email campaign for each of the Settlement Class Member records.

9. If the Email Notice was delivered successfully, no further action will be taken with respect to the particular potential Settlement Class Member record.

10. If the Email Notice is rejected or “bounces back” as undeliverable, Kroll will send a Short Notice by first-class mail to the physical address for that record if available, as described below.

Notice by Mail

11. Kroll will work with Counsel to format the Short Notice for mailing. Upon approval, Kroll will coordinate the preparation of Short Notice proofs for Counsel's review and final approval.

12. As required under paragraph 6.1 of the Settlement Agreement, Kroll will send the Short Notice by first-class mail to the physical addresses of Settlement Class Members: 1) who only have a physical mailing address (and no email address in the list of Settlement Class Members to be provided by Defendant); and 2) whose Email Notice bounced and a physical mailing address is included in the list of Settlement Class Members.

13. In preparation for the Short Notice mailing, Kroll will send the Settlement Class Member data through the United States Postal Service's ("USPS") National Change of Address ("NCOA") database. The NCOA process will provide updated addresses for Settlement Class Members who have submitted a change of address with the USPS in the last 48 months, and the process will also standardize the addresses for mailing. Kroll will then prepare a mail file of Settlement Class Members that are to receive the Short Notice via first-class mail.

14. As directed by Counsel, Short Notice returned by the USPS with a forwarding address will be automatically re-mailed to the updated address provided by the USPS.

15. As directed by Counsel, Short Notice returned by the USPS undeliverable as addressed without a forwarding address will be sent through an advanced address search process in an effort to find a more current address for the record. If an updated address is obtained through the advanced search process, Kroll will re-mail the Short Notice to the updated address.

Notice Through Online Media Campaign

16. As described in section 6.1 of the Settlement Agreement, online media notice will be provided through the implementation of an online media campaign. The proposal for online media notice designed by Kroll Notice Media Solutions ("Kroll Media"), a business unit of Kroll, is set forth below.

17. The Settlement Class includes “[a]ll persons residing in the United States whose personal information was exposed in the Data Breach at ILS.” Kroll Media has selected a target audience of adults 25 years of age or older.

18. This target audience is a proxy definition for the Settlement Class, as no nationally syndicated media research data provides an exact target audience for Settlement Class Members. Utilizing an overinclusive proxy audience is commonplace in both class action litigation and advertising generally.³

Online Display

19. Kroll Media will apply a programmatic approach to display advertising placements.⁴ Digital banner ads will be purchased “programmatically,” using a computer algorithm to show a specific ad to a specific visitor in a specific context across an allow list⁵ of approximately 6,000 websites. These ads are device agnostic and will appear across desktop, laptop, tablet, or mobile devices.

20. Online display ads will target adults over the age of 25 and include the most popular and widely accepted formats⁶ such as 160x600 (wide skyscraper), 300x250 (rectangle), 300x600

³ “If the total population base (or number of class members) is potentially unknown, it is accepted advertising and communication practice to use a proxy-media definition, which is based on accepted media research tools and methods that will allow the notice expert to establish that number. The percentage of the population reached by supporting media can then be established.” Duke Law School, *GUIDELINES AND BEST PRACTICES IMPLEMENTING 2018 AMENDMENTS TO RULE 23 CLASS ACTION SETTLEMENT PROVISIONS*, at 56. This publication is available online at: <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1003&context=bolch>.

⁴ In practice, when a user visits a website, an IP connection between the user’s device and the publisher’s webserver is established. The website then flags available ad tags so that the ad server can analyze data about the user, such as demographic attributes or location. This information is shared with advertising exchanges (*i.e.*, digital advertising marketplaces for ad space) where ad buyers can bid on the ad unit relevant to the campaign. If the ad unit is user-relevant, *i.e.*, it targets a class member, a bid is offered. Upon winning the bid for the ad unit, the ad is downloaded on a webpage for a user to see and this counts as an impression. Digital banner ads and social media ads include relevant information for the user to self-identify. If the user clicks on the ad, an embedded link takes them to the neutral, informational case website, where they can learn more about the settlement and their rights as a potential class member, including how to file a claim.

⁵ An “allow list” is a custom list of acceptable websites where ad content may be served. Serving ads using an allow list helps to mitigate ad fraud, ensures ads will be served in relevant digital environments to the target audience, and helps to ensure that ads will not appear next to offensive or objectionable content.

⁶ Digital ad unit dimensions are measured in pixels by height and width.

(large skyscraper), 728x90 (leader board), 300x50 (mobile banner), 320x50 (mobile leader board), and 336x280 (large rectangle).⁷

SOCIAL MEDIA ADS

21. Social media ads will appear on Facebook and Instagram users' Newsfeeds.⁸ Ads will be targeted to adults over the age of 25.

22. Social media advertising will include relevant information for the user to self-identify. If the user clicks on the social media ad, an embedded link takes them to the Settlement Website, where they can learn more about the settlement.

23. In total, an estimated 290 million impressions will be served across display and social media for this Notice Plan.

Settlement Website

24. Kroll will work with Counsel to create a dedicated Settlement Website. The Settlement Website URL will be determined and approved by Counsel. The Settlement Website will contain a summary of the settlement, will allow Settlement Class Members to contact the Settlement Administrator with any questions or changes of address, provide notice of important dates such as the Final Approval Hearing, Claims Deadline, Objection Date, and Opt-Out Date, and provide Settlement Class Members who file Claim Forms online the opportunity to select an electronic payment method, including Venmo, Zelle, Paypal, ACH, or payment by check. The Settlement Website will also contain relevant, downloadable case documents including the Short Notice, the Long Notice, the Claim Form, the Settlement Agreement, Plaintiffs' motion for preliminary approval of the Settlement, the Preliminary Approval Order, the Fee Application, and any other materials agreed upon by Counsel for the Parties and/or required by the Court.

⁷ Creating multiple ad sizes increases a notice plan's probability of getting the message in front of the right target audience at the right time. If a web page serves only 300x250 and 728x90 ads, and the campaign only created a 320x50 ad, a notice plan ad will not have the opportunity to serve an ad on that website.

⁸ Newsfeeds are where Facebook and Instagram users look for information about friends, family, news and brand information.

Toll-Free Telephone Number

25. Kroll will also establish a toll-free telephone number for the settlement. The toll-free telephone number will allow Settlement Class Members to call and obtain information about the settlement through an Interactive Voice Response system and live operator option. Settlement Class Members may also request copies of the Long Notice and Claim Form, as well as the Settlement Agreement.

Post Office Box

26. Kroll will designate a post office box with the mailing address *In re Independent Living Systems Data Breach Litigation*, c/o Kroll Settlement Administration LLC, P.O. Box 5324, New York, NY 10150-5324, in order to receive requests for exclusion, Claim Forms, objections and correspondence from Settlement Class Members.

Email Address

27. Kroll will establish an email address of info@ilsdatabreachsettlement.com in order to receive and reply to correspondence from Settlement Class Members.

Notice and Administration Expenses

28. The current estimate is subject to change depending on various factors, including the actual Settlement Class size, changes in U.S. postage rates, claim volume and submission method variance, and/or any Settlement Administration scope change not currently under consideration.

I declare under penalty of perjury under the laws of the United States that the above is true and correct to the best of my knowledge and that this declaration was executed on March 11, 2025, in Hatboro, Pennsylvania.


Paul V. Ferruzzi

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Master File No. 1:23-cv-21060-Williams

In re INDEPENDENT LIVING SYSTEMS)	<u>CLASS ACTION</u>
DATA BREACH LITIGATION)	
_____)	
This Document Relates To:)	
)	
ALL ACTIONS.)	
_____)	

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

Before this Court is Plaintiffs’ Unopposed Motion for Preliminary Approval of Class Action Settlement and Memorandum of Law in Support (“Motion”). The Court has reviewed the Motion and the Class Action Settlement Agreement (“Settlement Agreement”) between Plaintiffs and Defendant Independent Living Systems LLC (“ILS”). After reviewing Plaintiffs’ unopposed request for preliminary approval, this Court grants the Motion and preliminarily concludes that the proposed settlement (the “Settlement”) is fair, reasonable, and adequate.

IT IS HEREBY ORDERED THAT:

1. The Settlement Agreement,¹ including the proposed notice plan and forms of notice to the Settlement Class, the appointment of Plaintiffs David Asato, Katrina Berres, Ge Xiao Fang, Melinda Geleng, Mathew George, Maria Gomez, Dimitri Gutierrez, Chelsea Jensen, Rhianna

¹ All capitalized terms used in this Order shall have the same meanings as set forth in the Settlement Agreement.

McMullen, David Perez, Mark Salzano, Ernest Scoggan, and Ryan Smith as the Class Representatives, the appointment of Stuart A. Davidson of Robins Geller Rudman & Dowd LLP, Alexandra M. Honeycutt of Milberg Coleman Bryson Phillips Grossman PLLC, and John A. Yanchunis of Morgan & Morgan as Class Counsel for Plaintiffs and the Class, the approval of Kroll Settlement Administration LLC as the Settlement Administrator, the various forms of class relief provided under the terms of the Settlement Agreement and the proposed method of distribution of settlement benefits, are fair, reasonable, and adequate, subject to further consideration at the Fairness Hearing described below.

2. The Court does hereby preliminarily and conditionally approve and certify, for settlement purposes, the following Settlement Class:

All persons residing in the United States whose personal information was exposed or potentially accessed in the Data Breach at ILS.

3. Based on the information provided, the requirements for class certification are preliminary met: (a) the Settlement Class is sufficiently numerous; (b) there are common questions of law and fact; (c) the proposed Settlement Class Representatives' claims are typical of other members of the Settlement Class; (d) the proposed Class Representatives and Class Counsel will fully, fairly, and adequately protect the interests of the Settlement Class; (e) questions of law and fact common to members of the Settlement Class predominate over questions affecting only individual members for settlement purposes; and (f) a class action for settlement purposes is superior to other available methods for the fair and efficient adjudication of this Action.

4. The Court appoints Plaintiffs David Asato, Katrina Berres, Ge Xiao Fang, Melinda Geleng, Mathew George, Maria Gomez, Dimitri Gutierrez, Chelsea Jensen, Rhianna McMullen, David Perez, Mark Salzano, Ernest Scoggan, and Ryan Smith as the Class Representatives.

5. The Court appoints Stuart A. Davidson of Robbins Geller Rudman & Dowd LLP,

Alexandra M. Honeycutt of Milberg Coleman Bryson Phillips Grossman PLLC, and John A Yanchunis of Morgan & Morgan as Class Counsel.

6. The Court appoints Kroll Settlement Administration LLC as the Settlement Administrator.

7. A Final Approval Hearing shall be held before the Court on ____[date]_____, 2025 at ____[time]_____ for the following purposes:

- a. To determine whether the proposed Settlement is fair, reasonable, and adequate to the Class and should be approved by the Court;
- b. To determine whether to grant Final Approval, as defined in the Settlement Agreement, including conditionally certifying the proposed Class for settlement purposes only;
- c. To determine whether the notice plan conducted was appropriate;
- d. To determine whether the claims process under the Settlement is fair, reasonable and adequate and should be approved by the Court;
- e. To determine whether Class Counsel's request for an award of attorneys' fees of up to one third (1/3) of the Settlement Amount, and an award of litigation expenses and charges actually incurred, should be approved by the Court;
- f. To determine whether the settlement benefits are fair, reasonable, and adequate; and
- g. To rule upon such other matters as the Court may deem appropriate.

8. The Court approves, as to the form and content, the Notices (including the Short Form Notice). Furthermore, the Court approves the implementation of the Settlement Website and the proposed methods of mailing or distributing the notices substantially in the form as presented in the exhibits to the Motion for Preliminary Approval of Class Action Settlement, and finds that

such notice plan meets the requirements of Fed. R. Civ. P. 23 and due process, and is the best notice practicable under the circumstances, and shall constitute due and efficient notice to all persons or entities entitled to notice. The Settling Parties may make non-material and ministerial changes to the Notices to correct typos and complete the insertion of required dates without further order of Court, but any other revisions must be approved by the Court.

9. The Court preliminarily approves the following Settlement Timeline for the purposes of conducting the notice plan, settlement administration, claims processing, and other execution of the proposed Settlement:

SETTLEMENT TIMELINE

Event	Date
ILS provides CAFA Notice required by 28 U.S.C. §1715(b)	Within 10 calendar days after the filing of Plaintiffs' Motion for Preliminary Approval
ILS to provide available contact information for Settlement Class Members per the terms of the Settlement Agreement	Within 7 calendar days after entry of Preliminary Approval Order
Notice Plan commences ("Notice Date")	Within 30 calendar days after entry of Preliminary Approval Order
Compliance with CAFA Waiting Period under 28 U.S.C. §1715(d)	90 calendar days after the appropriate governmental offices are served with CAFA notice
Receipt or postmark deadline for Requests for Exclusion (opt outs) or Objections	60 calendar days after commencement of Notice Plan
Deadline to file Plaintiffs' Motion for Final Approval and Motion for Attorneys' Fees, Costs, and Expenses	No later than 14 calendar days prior to the Opt-Out/Objection Deadlines
Postmark/Filing deadline for members of the Settlement Class to file claims	90 calendar days after Notice Date
Deadline for Plaintiffs to file any reply	No later than 7 calendar days prior to the Final Approval Hearing
Final Approval Hearing	No earlier than 120 calendar days after Preliminary Approval Order; to be set by the Court
ILS's Payment of the balance of the	No later than 30 calendar days after the

Settlement Amount Pursuant to Paragraph 2.1	Effective Date
Payment of Attorneys' Fees and Expenses	At least 10 calendar days after the payment of the balance of the Settlement Amount

10. In order to be a timely claim under the Settlement, a Claim Form must be either postmarked or received by the Settlement Administrator no later than 90 calendar days after the Notice Date. Class Counsel and the Settlement Administrator will ensure that all specific dates and deadlines are added to the Settlement Class Notice and posted on the Settlement Website after this Court enters this Order in accordance with the timeline being keyed on the grant of this Order.

11. All requests to opt out of the proposed Settlement must be received by the Settlement Administrator no later than 60 days after the Notice Date. Any request to opt out of the Settlement should, to the extent possible, contain words or phrases such as “opt-out,” “opt out,” “exclusion,” or words or phrases to that effect indicating an intent not to participate in the settlement or be bound by this Agreement). Settlement Class Members may only opt-out on behalf of themselves; mass or class opt-outs will not be valid. Opt-Out notices shall not be rejected simply because they were inadvertently sent to the Court or Class Counsel so long as they are timely postmarked or received by the Court, Kroll Settlement Administration LLC, or Class Counsel. Settlement Class Members who seek to Opt-Out shall receive no benefit or compensation under the Settlement Agreement. Settlement Class Members who do not Opt-Out from the Settlement Class shall be bound by the terms of the Settlement Agreement, to the extent it receives final approval, and any final judgment.

12. Settlement Class Members may submit an objection to the proposed Settlement or Class Counsel's request for an award of attorneys' fees and expenses. For an Objection to be valid, it must be sent to the Settlement Administrator, received or postmarked within 60 calendar days of the Notice Date and include each and all of the following:

- (i) the objector's full name, address, telephone number, and email address (if any);
- (ii) information identifying the objector as a Settlement Class Member, including proof that the objector is a member of the Settlement Class (e.g., copy of notice or copy of original notice of the Security Incident);
- (iii) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable;
- (iv) the identity of all counsel representing the objector, including the identity of all counsel who will appear at the Final Approval Hearing;
- (v) the identity of all counsel representing the objector who will appear at the Final Approval Hearing;
- (vi) a list of all Persons who will be called to testify at the Final Approval Hearing in support of the objection;
- (vii) a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and
- (viii) the objector's signature and the signature of the objector's duly authorized attorney or other duly authorized representative, along with documentation setting forth such representation.

Any Objection failing to include the requirements expressed above will be deemed to be invalid. Any Settlement Class Member objecting to the Settlement agrees to submit to any discovery related to the Objection.

13. All Settlement Class Members shall be bound by all determinations and judgments in this Action concerning the Settlement, including, but not limited to, the release provided for in the Settlement Agreement, whether favorable or unfavorable, except those who timely and validly request exclusion from the Settlement Class. The persons and entities who timely and validly request exclusion from the Settlement Class will be excluded from the Settlement Class and shall not have rights under the Settlement Agreement, shall not be entitled to submit Claim Forms, and shall not be bound by the Settlement Agreement or any Final Approval Order in this Action.

14. If the Settlement is finally approved, all Settlement Class Members who have not submitted a timely and proper Opt-Out notice shall release the Released Persons from all Released

Claims, as described in Section 9 of the Settlement Agreement, including, but not limited to, all claims arising out of or relating to the Data Security Incident (as defined in the Settlement Agreement) or the maintenance, storage, theft, or disclosure of any sensitive information of any Settlement Class Member.

15. Pending final determination of whether the Settlement Agreement should be approved, Plaintiffs and all Settlement Class Members are barred and enjoined from directly or indirectly (a) filing, commencing, prosecuting, intervening in, or participating in (as class members or otherwise), any lawsuit in any jurisdiction based on or relating to the Released Claims (as defined in the Settlement Agreement); or (b) organizing any Settlement Class Members into a separate class for purposes of pursuing as a purported class action any lawsuit based on or relating to any of the Released Claims (as defined in the Settlement Agreement).

16. The Court reserves the right to adjourn the date of the Final Approval Hearing without further notice to the potential Settlement Class Members, and retains jurisdiction to consider all further requests or matters arising out of or connected with the proposed Settlement. The Court may approve the Settlement, with such modification as may be agreed to by the Parties or as ordered by the Court, without further notice to the Settlement Class.

17. This Order shall become null and void, and shall be without prejudice to the rights of the Parties, all of whom shall be restored to their respective positions existing immediately before this Court entered this Order, if (a) the proposed Settlement is not finally approved by the Court, or does not become Final (as defined in the Settlement Agreement), pursuant to the terms of the Settlement Agreement; or (b) the Settlement Agreement is terminated or does not become Final, as required by the terms of the Settlement Agreement, for any other reason. In such event, and except as provided therein, the proposed Settlement and Settlement Agreement shall become

null and void and be of no further force and effect; the preliminary certification of the Settlement Class for settlement purposes shall be automatically vacated; neither the Settlement Agreement nor the Court's Orders, including this Order, shall be used or referred to for any purpose whatsoever; and the Parties shall retain, without prejudice, any and all objections, arguments, and defenses with respect to class certification, including the right to argue that no class should be certified for any purpose.

18. If the Settlement does not become final, this Order shall be of no force and effect and shall not be construed or used as an admission, concession, or declaration by or against ILS of any fault, wrongdoing, breach, or liability, or by or against Plaintiffs or the Settlement Class Members that their claims lack merit or that the relief requested in the Action is inappropriate, improper, or unavailable, or as a waiver by any party of any defenses or arguments it may have.

19. The Court authorizes the Parties to take all necessary and appropriate steps to implement the Settlement Agreement.

IT IS SO ORDERED.

Dated _____

HON. KATHLEEN M. WILLIAMS
UNITED STATES DISTRICT JUDGE