

# Exhibit F

The Honorable Ricardo S. Martinez

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7 UNITED STATES DISTRICT COURT  
8 FOR THE WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

9 In re MCG Health Data Security Issue  
10 Litigation

NO. 2:22-CV-00849-RSM-DWC

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13 **SETTLEMENT AGREEMENT AND RELEASE**

14 This Settlement Agreement and Release (“Settlement Agreement”) is made and entered  
15 into by and among the following Settling Parties: (i) Plaintiffs Diana Saiki, Kenneth Hensley, as  
16 legal guardian of R.H., Linda Crawford, Julie Mack, Linda Booth, Candace Daugherty, Leo  
17 Thorbecke, Cynthia Strecker, Michael Price, Blanca Garcia, Joanne Mullins, Marjorita Dean,  
18 Kelly Batt, Jay Taylor, Shelley Taylor, and Gaye Ictech (“Plaintiffs” or “Representative  
19 Plaintiffs”), individually and on behalf of the Settlement Class (as defined below), and Defendant  
20 MCG Health, LLC (“Defendant” or “MCG” and together with Plaintiffs, the “Settling Parties”).  
21 This Settlement Agreement is subject to Court approval and is intended by the Settling Parties to  
22 fully, finally, and forever resolve, discharge, and settle the Released Claims (as defined below),  
23 upon and subject to the terms and conditions hereof.  
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2 **I. RECITALS**

3 1.1 MCG is a Seattle-based company that provides patient-care guidelines and  
4 software solutions to health care providers and health plans across the country. In this role, MCG  
5 operates as a business associate as defined by the Health Insurance Portability and Accountability  
6 Act (“HIPAA”) and is required to comply with certain HIPAA regulations. *See* 45 CFR 160.103.  
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8 In the course of its business, MCG received and stored certain personally identifiable information  
9 (“PII”) and protected health information (“PHI”) of the Plaintiffs and the putative Settlement  
10 Class Members.

11 1.2 On or about March 25, 2022, MCG determined that an unauthorized party  
12 previously had obtained PII and PHI matching data on MCG’s systems pertaining to  
13 approximately 1,100,000 persons (the “Data Security Incident”). MCG investigated the Data  
14 Security Incident and acted to secure the company’s systems. While the date the breach occurred  
15 is unknown, there is evidence to suggest the data may have been acquired by an unauthorized  
16 party in February 2020. MCG notified its customers (i.e., health care providers or health plans)  
17 that were affected by the incident and offered to send notice to their respective affected  
18 patients/members and regulators on its customers’ behalf. MCG directly notified approximately  
19 931,373 individuals that certain of their personal information may have been the subject of the  
20 Data Security Incident on behalf of its customers that instructed it to do so and where MCG  
21 believed the impacted health care provider or health plan customer to which the information  
22 matched is no longer in business, or the information was not matched to a specific health care  
23 provider or health plan customer. On June 10, 2022, MCG issued a press release regarding the  
24 Data Security Incident.  
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1           1.3     Beginning on June 16, 2022, Plaintiffs, individually and on behalf of a putative  
2 class, filed various actions against Defendant asserting claims concerning the Data Security  
3 Incident (the “Litigation”). The cases were consolidated in the United States District Court for  
4 the Western District of Washington (the “Court”). The Court appointed Jason T. Dennett of  
5 Tousley Brain Stephens PLLC, Gary M. Klinger of Milberg Coleman Bryson Phillips Grossman,  
6 PLLC, and Adam Polk of Girard Sharp LLP as Interim Co-Lead Class Counsel.

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8           1.4     Plaintiffs filed their Consolidated Class Action Complaint on September 16, 2022.  
9 On October 31, 2022, MCG moved to dismiss the Consolidated Class Action Complaint in its  
10 entirety. On March 27, 2023, Chief Magistrate Judge David W. Christel entered a Report and  
11 Recommendation recommending that the District Court grant in part and deny in part  
12 Defendant’s motion to dismiss and give Plaintiffs leave to replead certain causes of action. On  
13 June 22, 2023, the District Court (Senior U.S. District Judge Ricardo S. Martinez) adopted Chief  
14 Magistrate Judge Christel’s Report and Recommendation in its entirety. Plaintiffs filed their First  
15 Amended Consolidated Class Action Complaint on July 14, 2023. MCG filed a motion to dismiss  
16 the First Amended Consolidated Class Action Complaint on September 14, 2023. The Court has  
17 not ruled on that motion.  
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19           1.5     On July 26, 2023, after Chief Magistrate Judge Christel issued his Report and  
20 Recommendation, after Plaintiffs filed their First Amended Consolidated Class Action  
21 Complaint, and after the exchange of informal discovery, the Settling Parties engaged in an all-  
22 day, arms-length virtual mediation before a well-known and respected mediator, Jill R. Sperber  
23 of Judicate West, in an attempt to resolve the Litigation. While the Settling Parties made some  
24 headway in the initial mediation session, the Settling Parties were unable to reach resolution at  
25 that time.  
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1           1.6     In the four and a half months following the mediation, the Settling Parties  
2 continued to engage in negotiations with the assistance of Ms. Sperber. Ultimately, after  
3 discussions, Ms. Sperber made a mediator’s recommendation proposing a common fund  
4 settlement of \$8.8 million. Plaintiffs and Defendant accepted the proposal on December 8, 2023.  
5 Thereafter, the Settling Parties continued negotiations to formalize the terms of the settlement set  
6 forth herein in this Settlement Agreement.

7           1.7     Pursuant to the terms agreed to and set out below, this Settlement Agreement  
8 resolves all actions, proceedings, and claims asserted, or that could be asserted, against MCG and  
9 its customers arising out of or related to the Data Security Incident, as set forth in the release  
10 contained herein, by or on behalf of Plaintiffs or Members of the Settlement Class defined herein,  
11 but excluding the rights of Members of the putative Settlement Class who opt out from the  
12 Settlement Class pursuant to the terms and conditions herein.

13           1.8     Representative Plaintiffs believe the claims asserted in the Litigation, as set forth  
14 in the First Amended Consolidated Class Action Complaint, have merit. Representative Plaintiffs  
15 and Interim Co-Lead Class Counsel recognize and acknowledge, however, the expense and  
16 length of continued proceedings necessary to prosecute the Litigation against MCG through  
17 additional motion practice, trial, and potential appeals. They have also considered the uncertain  
18 outcome and risk of further litigation, particularly in an area of law that remains in a state of  
19 development, such as data privacy litigation, and thus brings with it a level of uncertainty, as well  
20 as the difficulties and delays inherent in such litigation. Interim Co-Lead Class Counsel are  
21 highly experienced in class action litigation, particularly in privacy litigation, and knowledgeable  
22 regarding the relevant claims, remedies, and defenses at issue generally in such litigation and in  
23 this Litigation. Interim Co-Lead Class Counsel have thoroughly examined the law and facts  
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1 relating to the matters at issue, the claims of Plaintiffs and the Settlement Class, and MCG's  
2 potential defenses, including conducting independent investigation and conferring with counsel  
3 for MCG on discovery related matters, as well as an assessment of the merits of expected  
4 arguments in a motion for class certification and motion for summary judgment. Based on this  
5 analysis and investigation, Representative Plaintiffs and Interim Co-Lead Class Counsel believe  
6 that resolution is an appropriate and reasonable means of ensuring that the Settlement Class is  
7 afforded important benefits as expediently as possible. They have determined that the settlement  
8 set forth in this Settlement Agreement is fair, reasonable, and adequate, and in the best interests  
9 of Plaintiffs and the Settlement Class.  
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11 1.9 MCG denies each and all of the claims and contentions alleged against it in the  
12 Litigation. MCG denies all wrongdoing or liability associated with the Data Security Incident  
13 alleged, or which could be alleged, in the Litigation. Nonetheless, MCG has concluded that  
14 further conduct of the Litigation would be protracted, burdensome and expensive, and that it is  
15 desirable that the Litigation be fully and finally settled in the manner and upon the terms and  
16 conditions set forth in this Settlement Agreement.  
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18 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among  
19 Representative Plaintiffs, individually and on behalf of the Settlement Class, and Defendant that,  
20 subject to the approval of the Court, the Litigation and the Released Claims shall be finally and  
21 fully compromised, settled, and released, and the Litigation shall be dismissed with prejudice,  
22 except as to those Settlement Class Members who timely opt out of the Settlement Class, upon  
23 and subject to the terms and conditions of this Settlement Agreement, as follows:  
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## 25 II. DEFINITIONS

26 As used in this Settlement Agreement, the following terms have the meanings specified

1 below:

2 2.1 “Administrative Costs” means all costs and expenses associated with providing  
3 notice of the Settlement Agreement to the Settlement Class, Claims Administration, and  
4 otherwise administering and carrying out the terms of this Settlement Agreement.

5 2.2 “Agreement” or “Settlement Agreement” means this Settlement Agreement and  
6 Release.

7 2.3 “Approved Claims” means Settlement Claims approved by the Claims  
8 Administrator or found to be valid, as set forth below.

9 2.4 “Attorneys’ Fees and Expenses Award” means such funds as may be awarded by  
10 the Court to Settlement Class Counsel for their fees, costs, and expenses in connection with the  
11 Litigation.

12 2.5 “Award” means the amount remitted by the Claims Administrator from the  
13 Settlement Fund to a Settlement Class Member for an Approved Claim, as provided in Paragraph  
14 4.2 of this Settlement Agreement.

15 2.6 “Claims Administration” means the processing and payment of claims received  
16 from members of the Settlement Class by the Claims Administrator.

17 2.7 “Claims Administrator” means Kroll Settlement Administration LLC a company  
18 experienced in administering class action claims generally and specifically those of the type  
19 provided for in this Litigation.

20 2.8 “Claims Deadline” means the deadline by which Settlement Class Members must  
21 submit any valid Settlement Claims. The Settling Parties propose the Claims Deadline be 120  
22 days after the Notice Deadline.

23 2.9 “Claim Form” means the claim form to be used by members of the Settlement  
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1 Class to submit a Settlement Claim, in substantially the same form as shown in Exhibit A to this  
2 agreement.

3 2.10 “Claims Period” means the time for Settlement Class Members to submit  
4 Settlement Claims, running from the Notice Deadline through the Claims Deadline.

5 2.11 “Class Notice” means the notice of settlement that is contemplated by this  
6 Settlement Agreement, and which shall include the Long Notice and Summary Notice, as  
7 approved by the Court.  
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9 2.12 “Credit Monitoring Service” means three-bureau credit monitoring offered by  
10 Kroll.

11 2.13 “Data Security Incident” means the data security incident that MCG discovered  
12 on or about March 25, 2022 and disclosed, as alleged in the class action complaints filed by  
13 Representative Plaintiffs, whereby an unauthorized party accessed or acquired certain  
14 individuals’ Personal Information.  
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16 2.14 “Effective Date” means the date by which all of the events and conditions  
17 specified in ¶ 2.17 below for the Final Approval Order to become Final have occurred or have  
18 been met.

19 2.15 “Final” means the occurrence of all of the following events: (i) the settlement  
20 pursuant to this Settlement Agreement is approved by the Court; (ii) the Court has entered a Final  
21 Approval Order and Judgment (as those terms are defined herein); and (iii) the time to appeal or  
22 seek permission to appeal from the Final Approval Order and Judgment has expired or, if  
23 appealed, the appeal has been dismissed in its entirety, or the Final Approval Order and Judgment  
24 have been affirmed in their entirety by the court of last resort to which such appeal may be taken,  
25 and such dismissal or affirmance has become no longer subject to further appeal or review.  
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1 Notwithstanding the above, any order modifying or reversing any Attorneys' Fees and Expenses  
2 Award or Service Awards made in this case shall not affect whether the Judgment is "Final" as  
3 defined herein or any other aspect of the Judgment.

4 2.16 "Final Approval Hearing" means the final hearing to be conducted by the Court  
5 in connection with the determination of the fairness, adequacy and reasonableness of this  
6 Settlement Agreement and the proposed settlement of the Litigation.

7 2.17 "Final Approval Order" means the Court's Final Approval Order, which, among  
8 other things, approves this Settlement Agreement and the settlement as fair, adequate, and  
9 reasonable, enters the Judgment, dismisses the Litigation with prejudice, and confirms the final  
10 certification of the Settlement Class.

11 2.18 "Funding Date" means the date, which is no later than 30 days after an order  
12 granting preliminary approval of the Settlement Agreement, in which MCG will make a cash  
13 payment in the amount of \$8,800,000.00 into a Qualified Settlement Fund to be used to fund  
14 Class Notice and Claims Administration, fund all costs of Approved Claims including Awards  
15 for Approved Claims, Credit Monitoring Services, Attorneys' Fees and Expense Awards, and  
16 Service Awards.

17 2.19 "Judgment" means a final judgment ordering and affirming the release set forth  
18 in Section 10 of this Settlement Agreement of the Released Claims against the Released Parties  
19 and the dismissal of the Litigation with prejudice.

20 2.20 "Notice Deadline" means the date by which the Notice Program shall be  
21 completed. The Settling Parties propose the Notice Deadline be 45 days after the entry of an  
22 order granting preliminary approval of the Settlement Agreement.

23 2.21 "Notice Program" means the notice program described in Section 6.  
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1           2.22   “Objection Deadline” means 90 days after the Notice Deadline.

2           2.23   “Opt-Out” means a Settlement Class Member (i) who timely submits a properly  
3 completed and executed Request for Exclusion; (ii) who does not rescind that Request for  
4 Exclusion before the Opt-Out Deadline; and (iii) as to which there is not a successful challenge  
5 to the Request for Exclusion.

6           2.24   “Opt-Out Deadline” means the date by which Settlement Class Members must  
7 submit their Request for Exclusion in order for it to be effective. The postmark date shall  
8 constitute evidence of the date of mailing for these purposes. The Opt-Out Deadline shall be 90  
9 days after the Notice Deadline.

10           2.25   “Litigation” means *In re MCG Health Data Security Issue Litigation*, filed in the  
11 United States District Court for the Western District of Washington, Case No. 2:22-CV-00849-  
12 RSM-DWC, including all of the cases consolidated therein.

13           2.26   “Person” means an individual, corporation, partnership, limited partnership,  
14 limited liability company or partnership, association, joint stock company, estate, legal  
15 representative, trust, unincorporated association, government or any political subdivision or  
16 agency thereof, and any business or legal entity, and their respective spouses, heirs, affiliates,  
17 attorneys, predecessors, successors, representatives, or assignees.

18           2.27   “Personal Information” means PII and PHI that may have been exposed,  
19 compromised, or accessed during the Data Security Incident, including patient names, genders,  
20 telephone numbers, addresses, email addresses, dates of birth, Social Security numbers, and  
21 medical code information.

22           2.28   “Preliminary Approval Order” means the Court’s order granting, among other  
23 things, conditional certification of the Settlement Class, preliminary approval of this Settlement  
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1 Agreement and the settlement, and approval of the form and method of Class Notice.

2 2.29 “Released Claims” means all claims that in any way arise out of or relate to the  
3 Data Security Incident or could have been brought in the Litigation. “Released Claims” does not  
4 include claims relating to the enforcement of the settlement and shall not include any claims of  
5 Settlement Class Members who have timely excluded themselves from the Settlement Class  
6 pursuant to Section 7.

7 2.30 “Released Parties” means MCG and its customers, as well as each of MCG’s and  
8 its customers’ past, present and future directors, shareholders, members, officers, employees,  
9 attorneys, consultants, agents, contractors, administrators, distributors, representatives, and  
10 insurers, and any parent, subsidiary or affiliated entity, and all persons acting by, through, under,  
11 or in concert with MCG or its customers, and their respective successors and assigns. Each of the  
12 Released Parties may be referred to individually as a “Released Party.” The Settling Parties  
13 expressly acknowledge that all Released Parties are intended beneficiaries of this Settlement  
14 Agreement.  
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16 2.31 “Representative Plaintiffs” means Diana Saiki, Kenneth Hensley, as legal  
17 guardian of R.H., Linda Crawford, Julie Mack, Linda Booth, Candace Daugherty, Leo  
18 Thorbecke, Cynthia Strecker, Michael Price, Blanca Garcia, Joanne Mullins, Marjorita Dean,  
19 Kelly Batt, Jay Taylor, Shelley Taylor, and Gaye Ictech.

20 2.32 “Request for Exclusion” means a fully completed and properly executed written  
21 request that is timely delivered to the Claims Administrator by a Settlement Class Member under  
22 Section 7 of this Settlement Agreement and is postmarked or submitted through the Settlement  
23 Website on or before the Opt-Out Deadline. For a Request for Exclusion to be properly completed  
24 and executed, subject to approval by the Court, it must: (a) state the Settlement Class Member’s  
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1 full name, address, and telephone number; (b) state the name and number of this case, *In re MCG*  
2 *Health Data Security Issue Litigation*; Case No. 2:22-cv-849-RSM-DWC; (c) contain the  
3 Settlement Class Member's personal and original signature or the original signature of a person  
4 authorized by law to act on the Settlement Class Member's behalf with respect to a claim or right  
5 such as those asserted in the Litigation, such as a trustee, guardian or person acting under a power  
6 of attorney; and (d) state unequivocally the Settlement Class Member's intent to be excluded  
7 from the settlement. All Requests for Exclusion must be submitted individually in connection  
8 with a Settlement Class Member, *i.e.*, one request is required for every Settlement Class Member  
9 seeking exclusion.  
10

11 2.33 "Service Award" means such funds as may be awarded by the Court to the  
12 Representative Plaintiffs as compensation for their service as Representative Plaintiffs.

13 2.34 "Settlement Claim" means: a valid claim properly and timely submitted by a  
14 Settlement Class Member using the Claim Form in substantially the same form as the one  
15 attached hereto as Exhibit A.  
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17 2.35 "Settlement Class Counsel" means: Jason T. Dennett of Tousley Brain Stephens  
18 PLLC, Gary M. Klinger of Milberg Coleman Bryson Phillips Grossman, PLLC, and Adam Polk  
19 of Girard Sharp LLP.

20 2.36 "Settlement Class Member(s)" means all persons meeting the definition of the  
21 Settlement Class set forth in ¶ 3.1 who did not timely opt-out of the Settlement pursuant to  
22 Section 7.  
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24 2.37 "Settling Parties" means, collectively, MCG and Representative Plaintiffs,  
25 individually and on behalf of the Settlement Class.  
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1           2.38 “Settlement Website” means a website, the URL for which to be mutually selected  
2 by the Settling Parties, which will inform Settlement Class Members of the terms of this  
3 Settlement Agreement, their rights, dates and deadlines and related information, as well as  
4 provide the Settlement Class Members with the ability to submit a Settlement Claim online.

5           2.39 All time periods described in terms of “days” shall be in calendar days unless  
6 otherwise expressly stated.

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8           **III. SETTLEMENT CLASS**

9           3.1 For settlement purposes only, the Settling Parties agree that the Court should  
10 certify the following Settlement Class defined as:

11                           All United States residents whose personally identifiable  
12 information (PII) and/or protected health information  
13 (PHI) was accessed or acquired during the MCG data  
14 security incident that MCG discovered on or about March  
15 25, 2022.

16           3.2 Excluded from the Settlement Class are the Court and all members of the Court’s  
17 staff, and persons who timely and validly request exclusion from the Settlement Class.

18           3.3 For settlement purposes only, Plaintiffs shall also seek, and Defendant shall not  
19 oppose, the appointment of Jason T. Dennett of Tousley Brain Stephens PLLC, Gary M. Klinger  
20 of Milberg Coleman Bryson Phillips Grossman, PLLC, and Adam Polk of Girard Sharp LLP as  
21 Settlement Class Counsel, and appointment of Representative Plaintiffs as Settlement Class  
22 Representatives.

23           **IV. SETTLEMENT CONSIDERATION AND BENEFITS**

24           4.1 *MCG’s Obligations.* In consideration for the releases contained in this Settlement  
25 Agreement, and as a direct result of the Litigation, and without admitting liability for any of the  
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1 alleged acts or omissions alleged in the Litigation, and in the interests of minimizing the costs  
2 inherent in any litigation, MCG will perform all the following:

3 4.1.1 *Qualified Settlement Fund.* MCG shall fund a non-reversionary Qualified  
4 Settlement Fund (“Settlement Fund”) in the total amount of \$8,800,000.00.  
5 The Claims Administrator shall pay all costs of the Class Notice, Claims  
6 Administration, Attorneys’ Fees and Expenses Award, Awards for Approved  
7 Claims, and Service Awards from the Settlement Fund. If the Court does not  
8 grant final approval of the Settlement Agreement or the Settlement does not  
9 become Final pursuant to Paragraph 2.15, any remaining portion of the  
10 Settlement Fund shall be returned to MCG. The Settlement Fund represents  
11 the total extent of the Released Parties’ monetary obligations under this  
12 Settlement Agreement. The Claims Administrator shall be responsible for all  
13 tax filings with respect to the Settlement Fund. The timing of payment by  
14 MCG into the Settlement Fund is also contingent upon the receipt by MCG of  
15 the necessary paperwork from Kroll Settlement Administration LLC for the  
16 Settlement Fund by the date that the Preliminary Approval Order or Final  
17 Approval Order is issued. If MCG does not receive this information by the  
18 date that the Preliminary Approval Order or Final Approval Order is issued,  
19 the Settlement Fund payment shall be made within 30 days after MCG  
20 receives this information.  
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24 4.1.2 *Non-Monetary Relief.* MCG shall undertake, implement, and maintain certain  
25 enhanced cybersecurity measures as set forth in Exhibit E to this Agreement.  
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1           4.2     *Monetary Settlement Benefits.* Settlement Class Members may make a Settlement  
2 Claim for reimbursement of documented ordinary losses, including reimbursement for  
3 extraordinary losses, and/or future credit monitoring as further described below. As an alternative  
4 to filing a Settlement Claim for reimbursement of ordinary losses or extraordinary losses,  
5 Settlement Class Members may submit a claim to receive an Alternative Cash Payment, as  
6 explained in ¶ 4.2.4.

7           4.2.1   *Documented Ordinary Losses.* Settlement Class Members may submit a claim  
8 for Ordinary Losses for documented out-of-pocket expenses fairly traceable  
9 to the Data Security Incident, up to \$1,500 per individual. “Ordinary Losses”  
10 may include: (i) unreimbursed losses relating to fraud or identity theft; (ii) out  
11 of pocket credit monitoring costs that were incurred on or after the Data  
12 Security Incident through the date of claim submission; and (iii) unreimbursed  
13 bank fees, long distance phone charges, postage, or gasoline for local travel.  
14 This list of reimbursable documented out-of-pocket expenses is not meant to  
15 be exhaustive, rather it is exemplary. Settlement Class Members may make  
16 claims for any documented unreimbursed out-of-pocket losses reasonably  
17 related to the Data Security Incident or to mitigating the effects of the Data  
18 Security Incident. The Claims Administrator shall have discretion to  
19 determine whether any claimed loss is reasonably related to the Data Security  
20 Incident. Settlement Class Members with Ordinary Losses must submit  
21 documentation supporting their claims. This can include receipts or other  
22 documentation not “self-prepared” by the claimant that documents the costs  
23 incurred. “Self-prepared” documents such as handwritten receipts are, by  
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1 themselves, insufficient to receive reimbursement, but can be considered to  
2 add clarity or support to other submitted documentation.

3 4.2.2 *Documented Extraordinary Losses.* Settlement Class Members are eligible  
4 for compensation for Extraordinary Losses resulting from the Data Security  
5 Incident, up to a maximum of \$10,000, upon submission of a valid Claim  
6 Form and supporting documentation, provided that: (i) the loss is an actual,  
7 documented, and unreimbursed monetary loss; (ii) the loss was more likely  
8 than not caused by the Data Security Incident; (iii) the loss occurred between  
9 February 25, 2020 and the Claims Deadline; (iv) the loss is not already  
10 covered by one or more of the normal reimbursement categories; and (v) the  
11 claimant made reasonable efforts to avoid the loss or seek reimbursement for  
12 the loss, including, but not limited to, exhaustion of all available credit  
13 monitoring insurance and identity theft insurance. “Extraordinary Losses”  
14 may include, without limitation, the unreimbursed costs, expenses, losses or  
15 charges incurred as a result of identity theft or identity fraud, falsified tax  
16 returns, or other possible misuse of Personal Information. To receive  
17 reimbursement for any documented Extraordinary Loss, Settlement Class  
18 Members must submit supporting documentation of the loss and a description  
19 of how the loss is fairly traceable to the Data Security Incident, if not readily  
20 apparent from the documentation.  
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24 4.2.3 *Credit Monitoring.* Settlement Class Members are eligible for enrollment in  
25 three years of Credit Monitoring Services, to include, at a minimum three  
26 bureau credit monitoring. Any Settlement Class Member may elect to submit



1 a claim for three years of Credit Monitoring Services. Settlement Class  
2 Members shall be entitled to seek Credit Monitoring as provided in this  
3 section in addition to either Ordinary and/or Extraordinary losses set forth in  
4 ¶¶ 4.2.1 and 4.2.2 or the Alternative Cash Payment set forth in ¶ 4.2.4.

5 4.2.4 *Alternative Cash Payment.* As an alternative to filing a claim for  
6 reimbursement of Ordinary Losses or Extraordinary Losses, Settlement Class  
7 Members may submit a claim to receive a *pro rata* equal share payment from  
8 the net Settlement Fund after payment of costs of the settlement including the  
9 costs of carrying out the Notice Program and Claims Administration, any  
10 approved Attorneys' Fees and Expenses Award, any approved Service  
11 Awards to Representative Plaintiffs, and payments for claims for Ordinary  
12 Losses, Credit Monitoring Services, and Extraordinary Losses. Should a  
13 Settlement Class Member choose to select an Alternative Cash Payment, there  
14 is a possibility that they may receive no payment if the total approved claims  
15 for Ordinary Losses, Credit Monitoring, and Extraordinary Losses plus the  
16 costs of the Notice Program and Claims Administration, any Attorneys' Fees  
17 and Expenses Award and Service Awards exceed the total amount of the  
18 Settlement Fund. The Alternative Cash Payment may be claimed in addition  
19 to Credit Monitoring Services.

22 4.3 Settlement Class Members seeking an award under ¶ 4.2 of this Agreement must  
23 complete and submit a written Claim Form to the Claims Administrator, postmarked or submitted  
24 electronically on or before the Claims Deadline. The Claim Form must: (a) be signed by the  
25 Settlement Class Member with a statement that his or her claim is true and correct to the best of  
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1 his or her belief; and (b) provide appropriate documentation where required by the Claim Form.  
2 Failure to provide supporting documentation as set forth on the Claim Form or as requested by  
3 the Claims Administrator shall result in denial of a Settlement Claim.

4 4.4 If, after the Effective Date, the total dollar value of Approved Claims for Ordinary  
5 Losses, Credit Monitoring, and Extraordinary Losses exceeds the amount remaining in the  
6 Settlement Fund necessary to cover valid claims, the Attorneys' Fees and Expenses Award,  
7 Service Awards, and Class Notice and Claims Administration costs, the payment amount for  
8 Approved Claims shall be reduced *pro rata* among all Settlement Class Members who submitted  
9 Approved Claims for Ordinary Losses, Credit Monitoring, and Extraordinary Losses, and no  
10 Alternative Cash Payments will be made. These *pro rata* determinations shall be performed by  
11 the Claims Administrator.  
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13 4.5 If a Settlement Class Member files a claim for the Alternative Cash Payment in  
14 addition to a claim for Ordinary Losses or Extraordinary Losses, the claim will be processed as  
15 a claim for Ordinary Losses or Extraordinary Losses, and the Alternative Cash Payment claim  
16 will be denied as duplicative. A Settlement Class Member may receive an Alternative Cash  
17 Payment if they elect to sign up for Credit Monitoring. A Settlement Class Member who only  
18 selects Credit Monitoring on their Claim Form will automatically receive an Alternative Cash  
19 Payment.  
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## 21 **V. PRELIMINARY SETTLEMENT APPROVAL AND FINAL APPROVAL**

22 5.1 As soon as practicable after the execution of the Settlement Agreement,  
23 Settlement Class Counsel shall file a motion seeking entry of a Preliminary Approval Order  
24 ("Motion for Preliminary Approval"). A proposed Preliminary Approval Order shall be  
25 submitted with the Motion for Preliminary Approval and shall be substantially in the form set  
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1 forth in Exhibit D. The Motion for Preliminary Approval shall request that the Court, *inter alia*:

- 2 a) Stay all proceedings in the Litigation other than those related to approval of  
3 the Settlement Agreement;
- 4 b) Preliminarily certify the Settlement Class for settlement purposes only;
- 5 c) Preliminarily approve the terms of the Settlement Agreement as fair, adequate,  
6 and reasonable;
- 7 d) Appoint Representative Plaintiffs as the Settlement Class representatives for  
8 settlement purposes only;
- 9 e) Appoint Settlement Class Counsel as counsel for the Settlement Class for  
10 settlement purposes only;
- 11 f) Approve the Notice Program, as set forth in Section 6 herein, and set the dates  
12 for the Claims Deadline;
- 13 g) Approve the form and contents of a long form notice (“Long Notice”) to be  
14 posted on the Settlement Website substantially similar to the one attached  
15 hereto as **Exhibit B**, and a Summary Notice to be sent via First Class Mail to  
16 Settlement Class Members (“Summary Notice”), substantially similar to the  
17 one attached hereto as **Exhibit C**, which together shall include a fair summary  
18 of the Settling Parties’ respective litigation positions, the general terms of the  
19 settlement set forth in this Settlement Agreement and Release, instructions for  
20 how to object to or submit a Request for Exclusion from the settlement, the  
21 process and instructions for filing a Claim Form, and the date, time and place  
22 of the Final Approval Hearing;
- 23 h) Approve a Claim Form substantially similar to that attached hereto as **Exhibit**  
24  
25  
26

1                   A;

- 2                   i) Appoint Kroll Settlement Administration LLC as the Claims Administrator;
- 3                   j) Set deadlines for Objections, Requests for Exclusion, a motion for attorneys’
- 4                   fees, and briefing in support of final approval; and
- 5                   k) Schedule the Final Approval Hearing on a date at least 120 days from the date
- 6                   of the Preliminary Approval Order.

7

8                   5.2 Settlement Class Counsel and MCG shall request that the Court hold a Final

9 Approval Hearing after Class Notice is completed and at least 30 days after the Opt-Out Deadline

10 and Objection Deadline, and at least 120 days after the date of the Preliminary Approval Order.

11                   5.3 Settlement Class Counsel and the Representative Plaintiffs shall move for final

12 approval on or before the deadline set by the Court.

13                   5.4 The proposed Final Approval Order and Judgment shall be negotiated by the

14 Settling Parties and filed with the motion for final approval, and shall, among other things:

- 15                   a) Determine the Settlement Agreement is fair, adequate, and reasonable;
- 16                   b) Finally certify the Settlement Class for settlement purposes only;
- 17                   c) Determine that the Notice Program satisfies Rule 23 and due process
- 18                   requirements;
- 19                   d) Dismiss all claims in the Litigation with prejudice;
- 20                   e) Bar and enjoin any Settlement Class Members who did not timely opt out in
- 21                   accordance with the requirements of this Settlement Agreement from asserting
- 22                   any of the Released Claims;
- 23                   f) Release and forever discharge MCG and the Released Parties from the
- 24                   Released Claims, as provided for in this Settlement Agreement; and
- 25
- 26

1 g) Reserve the Court’s continuing and exclusive jurisdiction over MCG and all  
2 Settlement Class Members (including all objectors) to administer, supervise,  
3 construe, and enforce this Agreement in accordance with its terms.

4 **VI. NOTICE PROGRAM**

5 6.1 Within ten (10) days of the filing of the Motion for Preliminary Approval, MCG,  
6 through the Claims Administrator acting at MCG’s direction, shall serve a letter and  
7 accompanying materials on the Attorney General of the United States and each state Attorney  
8 General or others, all as required by the Class Action Fairness Act, 28 U.S.C. § 1715(b) (“CAFA  
9 Notice”). MCG shall cause to be filed with the Court a declaration evidencing such service. The  
10 cost for the Claims Administrator preparing and sending CAFA Notice shall be paid from the  
11 Settlement Fund.  
12

13 6.2 Within ten (10) business days of the entry of the Order granting preliminary  
14 approval of the settlement, MCG will provide the Claims Administrator with a list of Settlement  
15 Class Members which will include, to the extent available, the name and physical mailing address  
16 of each Settlement Class Member. The Claims Administrator shall cause notice to be  
17 disseminated to Settlement Class Members pursuant to the Preliminary Approval Order and the  
18 Notice Program as described below, and in compliance with all applicable laws, including, but  
19 not limited to, the Due Process clause of the United States Constitution and Federal Rule of Civil  
20 Procedure 23, and be effectuated pursuant to the provisions set forth below, the costs of which  
21 shall be paid from the Settlement Fund. The Claims Administrator must maintain the list of  
22 Settlement Class Members in strict confidence and may not share the list with anyone other than  
23 MCG.  
24

25 6.3 Class Notice shall be provided to the Settlement Class as follows:  
26

1           6.3.1 On or before the Notice Deadline, the Claims Administrator shall send the  
2 Summary Notice on a postcard via First Class U.S. Mail, postage pre-paid, to Settlement Class  
3 Members (the “Notice Deadline”). Prior to sending Notice to the Settlement Class Members, the  
4 Claims Administrator will perform industry standard measures to confirm the current addresses  
5 of Settlement Class Members. For any Settlement Class Members for whom the Claims  
6 Administrator receives returned mail from the U.S. Postal Service indicating that the initial  
7 mailing was not delivered, as soon as administratively feasible after sending such mail, the  
8 Claims Administrator will perform searches for updated addresses and re-mail notice.  
9

10           6.3.2 On or before the Notice Deadline, the Claims Administrator shall establish  
11 a dedicated settlement website that includes this Settlement Agreement, the Long Notice, the  
12 Claim Form approved by the Court, and other relevant case-related documents. Settlement Class  
13 Counsel shall propose the format and content of the Settlement Website for prior approval by  
14 Defendant’s Counsel, which shall not be unreasonably withheld. The Settling Parties shall  
15 mutually select the URL for the Settlement Website. The Claims Administrator shall maintain  
16 and update the website throughout the Claims Period as needed. The Claims Administrator will  
17 also post on the Settlement Website copies of the motion for final approval and the motion for  
18 an Attorneys’ Fees and Expenses Award and Service Awards. A toll-free number with interactive  
19 voice response and FAQs shall also be made available to address Settlement Class Members’  
20 inquiries. The settlement website shall not include any advertising and shall remain operational  
21 until at least thirty (30) days following the Effective Date.  
22  
23

24           6.4 The Notice Program shall be subject to approval by the Court as meeting the  
25 requirements of due process and Rule 23 of the Federal Rules of Civil Procedure.  
26

1           6.5     The Long Notice, Summary Notice, and Claim Form approved by the Court may  
2 be adjusted by the Claims Administrator in consultation and agreement with the Settling Parties  
3 as may be reasonable and necessary, so long as it is not inconsistent with such approval and does  
4 not materially alter the language approved by the Court.

5           6.6     Prior to the Final Approval Hearing, Settlement Class Counsel shall cause to be  
6 filed with the Court an appropriate declaration from the Claims Administrator demonstrating  
7 compliance with the Court-approved Notice Program.  
8

9           **VII.   OPT-OUT PROCEDURES**

10          7.1     Each Settlement Class Member wishing to exclude themselves from the  
11 Settlement Class must individually sign and timely submit a written Request for Exclusion to the  
12 address designated by the Claims Administrator or online through the Settlement Website.

13          7.2     To be effective, a Request for Exclusion must be postmarked or submitted through  
14 the Settlement Website no later than 90 days after the Notice Deadline or such other date set by  
15 the Court in the Preliminary Approval Order. The Request for Exclusion must state: (i) the  
16 Settlement Class Member's name, address, and telephone number; (ii) the name and number of  
17 this case, *In re MCG Health Data Security Issue Litigation*, Case No. 2:22-cv-0849-RSM-DWC;  
18 (iii) a statement clearly indicating that the Settlement Class Member wishes to be excluded from  
19 the settlement; and (iv) the Settlement Class Member's personal and original signature or the  
20 original signature of a person authorized by law to act on the Settlement Class Member's behalf  
21 with respect to a claim or right such as those asserted in the Litigation, such as a trustee, guardian  
22 or person acting under a power of attorney.  
23  
24

25          7.3     Within 10 days after the Opt-Out Deadline, the Claims Administrator shall  
26 provide the Settling Parties with a complete and final list of all Opt-Outs who have timely and

1 validly excluded themselves from the Settlement Class and, upon request, copies of all completed  
2 Requests for Exclusions. Settlement Class Counsel may file these materials with the Court, with  
3 any PII other than names and cities and states of residence redacted, no later than 7 days prior to  
4 the Final Approval Hearing.

5           7.4 All persons who opt out of the Settlement Class shall not receive any benefits of  
6 or be bound by the terms of this Settlement Agreement. All persons falling within the definition  
7 of the Settlement Class who do not opt out shall be bound by the terms of this Settlement  
8 Agreement and the Final Approval Order entered thereon.

9           7.5 In the event that 750 or more Settlement Class Members elect to opt out of the  
10 Settlement Class, Defendant has the right to unilaterally terminate this Settlement Agreement  
11 and any settlement terms under the process identified in Paragraph 12.2. In this circumstance,  
12 Defendant shall be obligated to pay all settlement expenses already incurred, excluding any  
13 attorneys' fees, costs, and expenses of Settlement Class Counsel. Settlement Class Counsel  
14 agrees to work in good faith to effectuate this Settlement Agreement and will not solicit or  
15 encourage Settlement Class Members to submit Requests for Exclusion.  
16  
17

18           **VIII. OBJECTION PROCEDURES**

19           8.1 Each Settlement Class Member who does not file a valid and timely Request for  
20 Exclusion may file with the Court a notice of intent to object to the Settlement Agreement. The  
21 Long Notice shall instruct Settlement Class Members who wish to object to the Agreement to  
22 send their written objections to the Court and concurrently upon:  
23

24           For Settlement Class Counsel:

25           Jason T. Dennett  
26           **Tousley Brain Stephens PLLC**  
              1200 Fifth Avenue, Suite 1700  
              Seattle, WA 98101



1  
2 For MCG:

3 Stephen L. Saxl  
4 **Greenberg Traurig, LLP**  
5 One Vanderbilt Avenue  
6 New York, NY 10017

7 8.2 The Long Notice shall make clear that the Court can only approve or deny the  
8 Settlement Agreement and cannot change the terms. The Long Notice shall advise Settlement  
9 Class Members of the deadline for submission of any objections.

10 8.3 All such notices of an intent to object to the Settlement Agreement must be written  
11 and must include all of the following: (i) the objector's full name, address, telephone number,  
12 and e-mail address (if any); (ii) the name and number of this case, *In re MCG Health Data Security*  
13 *Issue Litigation*, Case No. 2:22-cv-0849-RSM-DWC; (iii) information identifying the objector  
14 as a Settlement Class Member, including proof that the objector is a member of the Settlement  
15 Class; (iv) a statement as to whether the objection applies only to the Settlement Class Member,  
16 to a specific subset of the Settlement Class, or to the entire class; (v) a clear and detailed written  
17 statement of the specific legal and factual bases for each and every objection, accompanied by  
18 any legal support for the objection the objector believes applicable; (vi) the identity of any  
19 counsel representing the objector; (vii) a statement whether the objector intends to appear at the  
20 Final Approval Hearing, either in person or through counsel, and, if through counsel, identifying  
21 that counsel; (viii) a list of all persons who will be called to testify at the Final Approval Hearing  
22 in support of the objections and any documents to be presented or considered; and (ix) the  
23 objector's signature and the signature of the objector's duly authorized attorney or other duly  
24 authorized representative (if any).  
25  
26

1           8.4     To be timely, written notice of an objection in the appropriate form must be filed  
2 with the Court or postmarked no later than the Objection Deadline.

3           8.5     Except upon a showing of good cause, any Settlement Class Member who fails to  
4 substantially comply with the requirements in this Section 8 for objecting shall waive and forfeit  
5 any and all rights he or she may have to appear separately and/or to object to the Settlement  
6 Agreement, and shall be bound by all the terms of the Settlement Agreement and by all  
7 proceedings, orders and judgments in the Litigation. The exclusive means for any challenge to  
8 the Settlement Agreement shall be through the provisions of this Section 8.  
9

10           **IX.     CLAIMS ADMINISTRATION**

11           9.1     The Claims Administrator shall administer and calculate the Settlement Claims  
12 submitted by Settlement Class Members. All Settlement Claims must be submitted on or before  
13 the Claims Deadline to be deemed timely. The determination by the Claims Administrator of the  
14 validity or invalidity of all Settlement Claims shall be binding. The Claims Administrator shall  
15 periodically provide Settlement Class Counsel and counsel for MCG with reports as to both  
16 settlement claims and distribution, and they shall have the right to obtain and review supporting  
17 documentation and challenge such reports if they believe them to be inaccurate or inadequate.  
18

19           9.2     For each settlement claim submitted and received, the Claims Administrator, in  
20 its sole discretion (to be reasonably exercised), will determine whether: (1) the claimant is a  
21 Settlement Class Member; and (2) that the claimant has provided all information required to  
22 complete the Claim Form by the Claims Deadline, including but not limited to information  
23 required under Section 4. The Claims Administrator may, at any time, request from the claimant,  
24 in writing, such additional information as the Claims Administrator may reasonably require in  
25 order to adequately evaluate the settlement claim. All information provided to the Claims  
26

1 Administrator will be deemed confidential by the Claims Administrator.

2 9.3 The Claims Administrator shall determine whether a claimant's Claim Form and  
3 supporting materials are sufficient to support a claim. If the Claims Administrator should receive  
4 an incomplete Claim Form or a Claim Form with insufficient documentation to determine  
5 whether the claimant is a Settlement Class Member, the Claims Administrator shall request  
6 additional information and give the claimant twenty-one (21) days to cure any defect(s) before  
7 rejecting a settlement claim. The Claims Administrator shall make requests for additional  
8 information within twenty-one (21) days after the Claims Filing Deadline. If a Settlement Class  
9 Member fails to correct all deficiencies within twenty-one (21) days from receiving a request for  
10 additional information, the Claims Administrator shall deny the claimant's settlement claim and  
11 the claimant will not be entitled to an Award.  
12

13 9.4 After receiving additional information, the Claims Administrator shall have thirty  
14 (30) days to accept or reject each settlement claim. If, after review of the settlement claim and  
15 all documentation submitted by the claimant, the Claims Administrator determines that such a  
16 settlement claim is valid, then the settlement claim shall be paid within the time period provided  
17 in this Section. If the settlement claim remains invalid because the claimant does not provide the  
18 requested information needed to complete the Claim Form and evaluate the settlement claim,  
19 then the Claims Administrator may reject the settlement claim without any further action apart  
20 from providing a notice of rejection of the settlement claim.  
21

22 9.5 No Person shall have any claim against the Claims Administrator, Defendant, the  
23 Released Parties, or their counsel, Settlement Class Counsel, and/or the Representative Plaintiffs  
24 based on distribution of claims benefits to Settlement Class Members or any alleged failure by  
25 Defendant to implement any Non-Monetary Relief provided for herein, or otherwise arising out  
26

1 of the implementation of this Settlement Agreement.

2           9.6     The Claims Administrator shall agree to hold the Settlement Funds in an interest-  
3 bearing Qualified Settlement Fund account, and administer the Settlement Fund, subject to the  
4 continuing jurisdiction of the Court and from the earliest possible date, as a Qualified Settlement  
5 Fund as defined by Treasury Regulation § 1.46B-1, *et seq.*, and agree to any relation-back  
6 election required to treat the Settlement Fund as a Qualified Settlement Fund from the earliest  
7 date possible. The Claims Administrator shall prepare any required tax returns and pay any taxes  
8 owed by the Settlement Fund out of the Settlement Fund.  
9

10           9.7     The Claims Administrator will send funds for Approved Claims and enroll all  
11 Settlement Class Members who elected to enroll in Credit Monitoring in the Credit Monitoring  
12 Service within the later of sixty (60) days after the Effective Date or thirty (30) days after all  
13 disputed claims have been resolved. No distributions will be made without authorization from  
14 the Settling Parties. Award checks shall be valid for a period of 180 days from issuance, and shall  
15 state, in words or substance, that the check must be cashed within 180 days, after which time it  
16 will become void. In the event a settlement check becomes void, the Settlement Class Member  
17 to whom that settlement check was made payable will forfeit the right to payment and will not  
18 be entitled to have the check reissued or to any further distribution from the Settlement Fund or  
19 to any further recourse against the Released Parties, and the Agreement and Release will in all  
20 other respects be fully enforceable against the Settlement Class Member. No later than 190 days  
21 from the issuance of the Award checks, the Claims Administrator shall take all steps necessary  
22 to stop payment on any Award checks that remain uncashed.  
23  
24

25           9.8     All Settlement Class Members who fail to timely submit a valid settlement claim  
26 hereunder within the time frames set forth herein, or such other period as may be ordered by the

1 Court or otherwise allowed, shall be forever barred from receiving an Award pursuant to this  
2 Agreement, but will in all other respects be subject to, and bound by, the provisions of this  
3 Agreement, the Releases contained herein and the Final Approval Order.

4 9.9 If there is any balance remaining in the Settlement Fund ninety (90) days after the  
5 Claims Administrator completes the process for stopping payment on any award checks or  
6 payments that remain uncashed or undeposited, the Claims Administrator, in consultation with  
7 Settlement Class Counsel and counsel for MCG, shall undertake reasonable efforts to make a  
8 supplemental distribution to Settlement Class Members. Thereafter, if residual funds remain in  
9 the Settlement Fund, any remaining funds will be submitted via *cy pres* distribution to a charitable  
10 organization, which shall be selected jointly by the Settling Parties and approved by the Court.  
11 There will be no *cy pres* distribution unless the Court finds that the Settling Parties in good faith  
12 exhausted reasonable efforts to distribute the settlement fund to Settlement Class Members.  
13

14 **X. RELEASES**

15 10.1 Upon the Effective Date, each Settlement Class Member, including  
16 Representative Plaintiffs, whether or not they have received an Award, will be deemed by  
17 operation of this Settlement Agreement and by operation of the Final Approval Order to have  
18 forever fully, finally, completely, and unconditionally released, discharged, and acquitted MCG  
19 and the Released Parties from any and all of the Released Claims. Further, upon the Effective  
20 Date, and to the fullest extent permitted by law, each Settlement Class Member, including  
21 Representative Plaintiffs, shall, either directly, indirectly, representatively, as a member of or on  
22 behalf of the general public, or in any capacity, be permanently barred and enjoined from  
23 commencing, prosecuting, or participating in any recovery in any action in this or any other  
24 forum (other than the participation in the Agreement as provided herein) in which any of the  
25  
26

1 Released Claims are asserted.

2 10.2 Upon entry of the Final Approval Order, each Settlement Class Member,  
3 including Representative Plaintiffs, shall be barred from initiating, asserting, or prosecuting  
4 against MCG and any Released Parties any claims that are released by operation of the Settlement  
5 Agreement and the Final Approval Order.

6 **XI. SETTLEMENT CLASS COUNSEL’S ATTORNEYS’ FEES AND**  
7 **EXPENSES AWARD; REPRESENTATIVE PLAINTIFFS’ SERVICE**  
8 **AWARDS**  
9

10 11.1 Settlement Class Counsel may file a motion seeking payment of reasonable  
11 attorneys’ fees and their reasonable costs and expenses from the Settlement Fund not  
12 to exceed \$2.93 million. The entirety of the Attorneys’ Fees and Expenses Award, as  
13 approved by the Court, shall be payable solely from the Settlement Fund. The Settling  
14 Parties did not negotiate the payment of attorneys’ fees, costs, or expenses.

15 11.2 Settlement Class Counsel will also request from the Court Service Awards for the  
16 Representative Plaintiffs in the amount of \$2,500.00 each, to be paid solely from the Settlement  
17 Fund. MCG will not object to Representative Plaintiffs’ request for Service Award payments,  
18 unless Representative Plaintiffs’ request exceeds the terms outlined in this Agreement.

19 11.3 Within seven (7) days after the Effective Date, the Claims Administrator shall pay  
20 any Attorneys’ Fees and Expenses Award and Service Awards from the Settlement Fund to an  
21 account designated by Settlement Class Counsel. Settlement Class Counsel shall recommend an  
22 allocation of such attorneys’ fees and costs, and distributing to each participating firm an  
23 allocated share of such attorneys’ fees and costs to that firm. MCG shall have no responsibility  
24 for distribution of attorneys’ fees or costs among participating firms.  
25  
26

1           11.4 The Attorneys' Fees and Expenses Award and the Service Awards are intended  
2 to be considered by the Court separately from the Court's consideration of the fairness,  
3 reasonableness, and adequacy of the Settlement Agreement. No order of the Court or  
4 modification or reversal or appeal of any order of the Court concerning the amounts of the  
5 Attorneys' Fees and Expenses Award or the Service Awards hereunder shall affect whether the  
6 Judgment is Final or constitute grounds for cancellation or termination of this Settlement  
7 Agreement.  
8

9           **XII. CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL,**  
10           **CANCELLATION OR TERMINATION**

11           12.1 The Parties' willingness to settle this Litigation on a class-action basis and to  
12 agree to the accompanying certification of the Settlement Class for settlement purposes is  
13 dependent on achieving finality in this Litigation and the desire to avoid the expense of this and  
14 other litigation. Consequently, the Settling Parties each have the right to terminate this Settlement  
15 Agreement and declare it null and void, with no further obligations under this Settlement  
16 Agreement, unless all of the following conditions occur:  
17

- 18           a) The Court has entered a Preliminary Approval Order without material change  
19           to the agreed-upon proposed order set forth in Exhibit D (and without  
20           modification of the Settlement Agreement); and  
21           b) The Court enters a Final Approval Order (without modification of the  
22           Settlement Agreement);  
23           c) The Effective Date has occurred; and  
24           d) The number of Opt-Outs is fewer than the agreed upon threshold of the  
25           Settlement Class Members in Paragraph 7.5.  
26

1           12.2 If all of the conditions in ¶ 12.1 are not fully satisfied or the Effective Date does  
2 not occur, this Settlement Agreement may be terminated by any Settling Party by serving on  
3 counsel for the opposing Settling Party and filing with the Court a written notice of termination  
4 within 14 calendar days' notice before becoming effective.

5           12.3 In the event that (i) the Settlement Agreement and Release, as agreed to by the  
6 Parties, is not approved by the Court without modification or (ii) the Settlement Agreement is  
7 terminated in accordance with the terms of ¶ 12.2: (a) the Settling Parties shall be restored to  
8 their respective positions in the Litigation that existed prior to December 8, 2023, and shall jointly  
9 request that all scheduled litigation deadlines be reasonably extended by the Court so as to avoid  
10 prejudice to any Settling Party or litigant, which extension shall be subject to the decision of the  
11 Court; and (b) the terms and provisions of the Settlement Agreement shall have no further force  
12 and effect with respect to the Settling Parties and shall not be used in the Litigation or in any  
13 other proceeding for any purpose, and any judgment or order entered by the Court in accordance  
14 with the terms of the Settlement Agreement, including certification of the Settlement Class for  
15 settlement purposes only, shall be treated as vacated, *nunc pro tunc*. Notwithstanding any  
16 statement in this Settlement Agreement to the contrary, no order of the Court or modification or  
17 reversal on appeal of any order reducing the amount of any requested Attorneys' Fees and  
18 Expenses Award to Settlement Class Counsel shall constitute grounds for cancellation or  
19 termination of the Settlement Agreement.  
20  
21

### 22           **XIII. MISCELLANEOUS PROVISIONS**

23           13.1 The Settling Parties and their counsel acknowledge that it is their intent to  
24 consummate this Settlement Agreement and agree to undertake their best efforts to effectuate  
25 and implement all terms and conditions of this Settlement Agreement, including taking all steps  
26



1 and efforts contemplated by this Settlement Agreement, and any other steps and efforts which  
2 may become necessary by order of the Court or otherwise.

3           13.2 The Settling Parties intend this Settlement Agreement to be a final and complete  
4 resolution of all disputes between them with respect to the Litigation and with regard to the  
5 Settlement Class and the Released Parties. The Settlement Agreement compromises claims that  
6 are contested and shall not be deemed an admission by any Settling Party as to the merits of any  
7 claim or defense, or that any claims would be suitable for class treatment if this Litigation  
8 proceeded through both litigation and trial. The Settling Parties each agree that the settlement  
9 was negotiated in good faith by the Settling Parties and reflects a settlement that was reached  
10 voluntarily after consultation with competent legal counsel. The Settling Parties reserve their  
11 right to rebut, in a manner that such party determines to be appropriate, any contention made in  
12 any public forum that the Litigation was brought or defended in bad faith or without a reasonable  
13 basis.  
14

15           13.3 Neither the Settlement Agreement nor any act performed or document executed  
16 pursuant to or in furtherance of the Settlement Agreement: (a) is or may be deemed to be or may  
17 be used as an admission of, or evidence of, the validity or lack thereof of any Released Claim or  
18 of any wrongdoing or liability of any of the Released Parties; or (b) is or may be deemed to be  
19 or may be used as an admission of, or evidence of, any fault or omission of any of the Released  
20 Parties, in any civil, criminal, or administrative proceeding in any court, administrative agency,  
21 or other tribunal. Any of the Released Parties may file the Settlement Agreement in any action  
22 that may be brought against them or any of them in order to support a defense or counterclaim  
23 based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment  
24 bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or  
25  
26

1 counterclaim.

2 13.4 The Settlement Agreement may be amended or modified only by a written  
3 instrument signed by or on behalf of all Settling Parties or their respective successors-in-interest.  
4 Amendments and modifications may be made without additional notice to the Settlement Class  
5 Members unless such notice is required by the Court.

6 13.5 The Settlement Agreement contains the entire agreement between the Settling  
7 Parties and supersedes all prior agreements or understandings between them. The terms of the  
8 Settlement Agreement shall be construed as if drafted jointly by all Settling Parties to this  
9 Settlement Agreement. The terms of the Settlement Agreement shall be binding upon each of the  
10 Settling Parties to this Settlement Agreement, their agents, attorneys, employees, successors and  
11 assigns, and upon all other Persons or entities claiming any interest in the subject matter hereof,  
12 including any Settlement Class Member.

13 13.6 The Settlement Agreement shall be considered to have been negotiated, executed  
14 and delivered, and to be wholly performed, in the State of Washington, and the rights and  
15 obligations of the parties to the Settlement Agreement shall be construed and enforced in  
16 accordance with, and governed by, the internal, substantive laws of the State of Washington  
17 without giving effect to that State's choice of law principles.

18 13.7 The Court shall retain jurisdiction over the implementation, enforcement, and  
19 performance of this Settlement Agreement and shall have exclusive jurisdiction over any suit,  
20 action, proceeding, or dispute arising out of or relating to this Settlement Agreement that cannot  
21 be resolved by negotiation and agreement by counsel for the Settling Parties. The Court shall  
22 retain jurisdiction with respect to the administration, consummation, and enforcement of the  
23 Settlement Agreement and shall retain jurisdiction for the purpose of enforcing all terms of the  
24  
25  
26

1 Settlement Agreement. The Court shall also retain jurisdiction over all questions and/or disputes  
2 related to the Notice Program and the Claims Administrator. As part of its agreement to render  
3 services in connection with this Settlement, the Claims Administrator shall consent to the  
4 jurisdiction of the Court for this purpose.

5           13.8 The individuals signing this Settlement Agreement on behalf of MCG represent  
6 that they are fully authorized by MCG to enter into, and to execute, this Settlement Agreement  
7 on its behalf. Settlement Class Counsel represent that they are fully authorized to conduct  
8 settlement negotiations with counsel for MCG on behalf of the Representative Plaintiffs, and to  
9 enter into, and to execute, this Settlement Agreement on behalf of the Settlement Class, subject  
10 to Court approval.

11  
12           13.9 None of the Settling Parties to this Settlement Agreement shall be considered to  
13 be the primary drafter of this Settlement Agreement or any provision hereof for the purpose of  
14 any rule of interpretation or construction that might cause any provision to be construed against  
15 the drafter.

16  
17           13.10 The Settling Parties agree that this Settlement Agreement, and the Final Order  
18 following from the Settlement Agreement, will not prejudice in any way the Settling Parties'  
19 right to raise any of the arguments that the Settling Parties made in this case in any future  
20 litigation.

21           13.11 In the event that any provision hereof becomes or is declared by a court of  
22 competent jurisdiction to be illegal, unenforceable, or void, this Settlement Agreement shall  
23 continue in full force and effect without said provision to the extent the Parties do not exercise  
24 their right to terminate under Section 12.

25  
26           13.12 All notices or formal communications under this Settlement Agreement shall be

1 in writing and shall be given (i) by hand delivery; (ii) by registered or certified mail, return receipt  
2 requested, postage pre-paid; or (iii) by overnight courier to counsel for the Settling Party to whom  
3 notice is directed at the following addresses, and also send a copy by electronic mail:

4 For the Representative Plaintiffs and the Settlement Class:

5 Jason T. Dennett  
6 **TOUSLEY BRAIN STEPHENS PLLC**  
7 1200 Fifth Avenue, Suite 1700  
8 Seattle, WA 98101-3147  
9 Telephone: (206) 682-5600  
10 *jdennett@tousley.com*

11 Gary M. Klinger  
12 **MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN, PLLC**  
13 227 W. Monroe Street, Suite 2100  
14 Chicago, IL 60606  
15 Telephone: (866)252.0878  
16 *gklinger@milberg.com*

17 Adam E. Polk  
18 **GIRARD SHARP LLP**  
19 601 California Street, Suite 1400  
20 San Francisco, CA 94108  
21 Telephone: (415) 981-4800  
22 *apolk@girardsharp.com*

23 For MCG:

24 Stephen L. Saxl  
25 **GREENBERG TRAUIG, LLP**  
26 One Vanderbilt Avenue  
New York, New York 10017  
Telephone: (212) 801-9200  
*saxls@gtlaw.com*

Jaime Drozd  
**DAVIS WRIGHT TREMAINE LLP**  
920 Fifth Avenue, Suite 3300  
Seattle, WA 98104-1610  
Telephone: (206) 622-3150  
*jaimedrozd@dwt.com*

Counsel may designate a change of the person to receive written notice or a change of address,

1 from time to time, by giving written notice to all Settling Parties in the manner described in this  
2 Paragraph.

3 13.13 The Settlement Agreement may be executed in one or more counterparts. All  
4 executed counterparts and each of them shall be deemed to be one and the same instrument. A  
5 complete set of original executed counterparts shall be filed with the Court.

6 IN WITNESS WHEREOF, the Settling Parties hereto have caused the Agreement to be  
7 executed on their behalf by their duly authorized officers or counsel of record, all as of the day  
8 set forth below:  
9

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1 *Interim Co-Lead Counsel on behalf of*  
2 *Representative Plaintiffs and the Class:*

On behalf of MCG Health, LLC:

3 Dated: March 1, 2024

Dated: March \_\_, 2024

4 

MCG Health, LLC

5 Jason T. Dennett  
6 **TOUSLEY BRAIN STEPHENS**  
7 **PLLC**  
1200 Fifth Avenue, Suite 1700  
Tel: 206-682-5600  
jdenett@tousley.com

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

8 Dated: March 1, 2024

Dated: March \_\_, 2024

9 

10 Gary M. Klinger  
11 **MILBERG COLEMAN BRYSON**  
12 **PHILLIPS GROSSMAN, PLLC**  
227 W. Monroe Street, Suite 2100  
Chicago, IL 60606  
Tel: 866-247-0047  
gklinger@milberg.com

\_\_\_\_\_  
Stephen L. Saxl  
**GREENBERG TRAUIG, LLP**  
One Vanderbilt Avenue  
New York, New York 10017  
Telephone: (212) 801-9200  
saxls@gtlaw.com

14 Dated: March 1, 2024

Dated: March \_\_\_\_, 2024

15   
16 Adam Polk

17 Adam Polk  
18 **GIRARD SHARP LLP**  
601 California Street, Suite 1400  
San Francisco, CA 94108  
Telephone: (415) 981-4800  
apolk@girardsharp.com

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4 Dated: March \_\_, 2024

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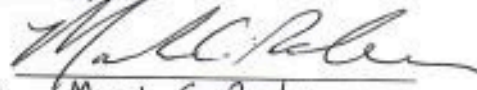
21 Dated: March \_\_, 2024

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26 San Francisco, CA 94108  
Telephone: (415) 981-4800  
apolk@girardsharp.com

On behalf of *MCG Health, LLC:*

Dated: March 1, 2024

MCG Health, LLC

By:   
Name: Mark C. Redman  
Title: Assistant Secretary

Dated: March \_\_, 2024

\_\_\_\_\_   
Stephen L. Saxl  
**GREENBERG TRAUIG, LLP**  
One Vanderbilt Avenue  
New York, New York 10017  
Telephone: (212) 801-9200  
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Dated: March \_\_, 2024

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2 *Representative Plaintiffs and the Class:*

On behalf of MCG Health, LLC:

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4 Dated: March \_\_\_, 2024

Dated: March \_\_\_, 2024

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11 jdenett@tousley.com

MCG Health, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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Dated: March 1, 2024

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39 Telephone: (206) 622-3150  
40 jaimedrozd@dwt.com



1 *Interim Co-Lead Counsel on behalf of*  
2 *Representative Plaintiffs and the Class:*

On behalf of MCG Health, LLC:

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4 Dated: March \_\_\_, 2024

Dated: March \_\_\_, 2024

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MCG Health, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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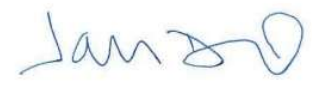
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Exhibit A – Claim Form



\*\*\*\*\*PLACEHOLDER\*\*\*\*\*

<p>Unreimbursed Credit Card Fees</p> <p><i>Examples: Credit card statement</i></p>	<p>\$</p> <p>MM DD YYYY</p>	<p>_____</p> <p>_____</p> <p>_____</p>
<p>Unreimbursed Credit Monitoring</p> <p><i>Examples: Costs of credit report(s), credit monitoring, and/or other identity theft insurance products purchased</i></p>	<p>\$</p> <p>MM DD YYYY</p>	<p>_____</p> <p>_____</p> <p>_____</p>
<p>Other Losses or Costs Resulting from Identity Theft or Fraud</p> <p><i>Examples: Including, but not limited to, the cost of postage, gas for local travel or interest on payday loans due to card cancellation</i></p>	<p>\$</p> <p>MM DD YYYY</p>	<p>_____</p> <p>_____</p> <p>_____</p>

**Documented Extraordinary Expenses**

You can receive reimbursement for up to \$10,000.00 for documented unreimbursed extraordinary expenses incurred as a result of the Data Incident if: (1) the loss is an actual, documented, and unreimbursed monetary loss; (2) the loss was more likely than not caused by the Data Incident; (3) the loss occurred between February 25, 2020 and **MONTH XX, 20YY** (Claims Deadline); (4) the loss is not already covered by one or more of the out-of-pocket reimbursement categories; and (5) you made reasonable efforts to avoid, or seek reimbursement for, the loss, including but not limited to exhausting all available credit monitoring insurance and identity theft insurance. To receive reimbursement for any documented Extraordinary Loss, you must attach documents to your Claim Form that show what happened and how much you lost or spent so that you can be repaid and provide a description of how the loss is fairly traceable to the Data Incident, if not readily apparent from the documentation. This may include receipts or other documentation. "Self-prepared" documentation such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but may be considered to add clarity or support to other submitted documentation.

<p><b>Expense Types and Examples of Documents</b></p>	<p><b>Approximate Amount of Expense and Date</b></p>	<p><b>Description of Expense or Money Spent and Supporting Documents</b> (Identify what you are attaching and why it's related to the Data Incident)</p>
<p>Extraordinary Loss</p> <p><i>Examples: Professional fees incurred to address identity theft or fraud, such as falsified tax returns, account fraud, and/or medical identity theft</i></p>	<p>\$</p> <p>MM DD YYYY</p>	<p>_____</p> <p>_____</p> <p>_____</p>
<p>Other Extraordinary Losses</p> <p><i>Please provide a detailed description or a separate document submitted with this Claim Form.</i></p>	<p>\$</p> <p>MM DD YYYY</p>	<p>_____</p> <p>_____</p> <p>_____</p>

\*0000PLACEHOLDER0000\*

**Credit Monitoring**

You may elect to receive three years of free three-bureau credit monitoring offered by \_\_\_\_\_.

I would like to be enrolled in three years of credit monitoring.

**Alternative Cash Payment**

If you do not want to claim reimbursement for Ordinary Losses or Extraordinary Losses, you may instead claim a pro-rata (a legal term meaning equal share) payment from the Net Settlement Fund after all costs associated with the Settlement have been paid. If all costs and payments exceed the Settlement Fund amount, this option could result in no payment.

I would like to claim a pro-rata Alternative Cash Payment.

**How You Would Like to Receive Your Cash Payment**

If you made a claim for a cash payment in this Claim Form, you need to elect to receive your payment either by check or as a digital payment (e.g., an ACH direct deposit or prepaid debit card using instructions emailed to you). Checks must be cashed within **180** days of receiving them.

Which do you prefer? (choose one)

Check Mailed to Me

Zelle

Venmo

Digital Mastercard

I affirm under the laws of the United States that the information supplied in this Claim Form is true and correct to the best of my knowledge, and any documents I submitted in support of my claim are true and correct copies of original documentation.

I understand that I may be asked to provide more information by the Claims Administrator before my claim is complete.

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT B – LONG FORM NOTICE**

## **If your personal information was compromised as a result of a data security incident with MCG Health, LLC, you may be entitled to benefits from a settlement.**

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

- A settlement has been reached in a class action lawsuit against MCG Health, LLC (“Defendant” or “MCG”) for a data security incident involving MCG. On or about March 25, 2022, MCG determined that an unauthorized party apparently accessed MCG’s systems (“Data Incident”) and previously obtained certain personally identifiable information and protected health information (collectively, “Personal Information”). While the date the Data Incident occurred is unknown, there is evidence to suggest the data may have been acquired by an unauthorized party in February 2020. The Personal Information acquired or accessed by the unauthorized party includes some or all of the following data elements: patient names, genders, telephone numbers, addresses, email addresses, dates of birth, Social Security numbers, and medical code information. MCG and certain of its customers (i.e., health care providers or health plans) notified certain individuals that their Personal Information may have been the subject of the Data Incident.
- You are a “Settlement Class Member” if your Personal Information was accessed or acquired during the Data Incident.
- If you are a Settlement Class Member, you may file a Claim Form to receive 1) reimbursement for Documented Ordinary Losses; 2) reimbursement for Documented Extraordinary Losses **OR** 3) an Alternative Cash Payment; and 4) Credit Monitoring:
  - **Documented Ordinary Losses** – Up to \$1,500 in reimbursement for documented out-of-pocket expenses fairly traceable to the Data Incident.
  - **Documented Extraordinary Losses** – Reimbursement for documented extraordinary losses resulting from the Data Incident, up to \$10,000.
  - **Credit Monitoring** – Three years of three-bureau credit monitoring through Kroll in addition to Documented Ordinary Losses, Documented Extraordinary Losses or the Alternative Cash Payment.

Please Note: Claims for Documented Ordinary Losses will be limited to \$1,500 per individual. Claims for Documented Extraordinary Losses will be limited to \$10,000. All cash payments may be adjusted *pro rata* depending on the number of Class Members that participate in the Settlement.

- **Alternative Cash Payment** – A *pro rata* (a legal term meaning an equal share) payment from the net Settlement Fund, which is \$8,800,000 minus payment of costs of the Settlement including the costs of the Notice Program and Claims Administration, Attorneys’ Fees and Expenses of up to \$2,930,000, Service Awards of up to \$2,500 for each to the Representative Plaintiffs, and payments for claims for Ordinary Losses and Extraordinary Losses. Note that if these costs of the Settlement, fees, awards and claims exceed the Settlement Fund, individuals selecting this option may not receive any payment.

**This Notice may affect your rights. Please read it carefully.**

These rights and options—**and the deadlines to exercise them**—are explained in this Notice.

<b>Your Legal Rights and Options</b>		<b>Deadline</b>
<b>SUBMIT A CLAIM FORM</b>	You must submit a Claim Form by mail or online to receive Settlement benefits.	<b>Month Day, 20YY</b>
<b>EXCLUDE YOURSELF</b>	Get no Settlement benefits. Keep your right to file your own lawsuit against MCG and Released Parties about the legal claims in this case.	<b>Month Day, 20YY</b>
<b>OBJECT</b>	Tell the Court why you do not like the Settlement. You will still be bound by the Settlement if the Court approves it.	<b>Month Day, 20YY</b>
<b>DO NOTHING</b>	Get no Settlement benefits. Be bound by the Settlement.	

- The Court in charge of this case must still decide whether to approve the Settlement and the requested attorneys' fees and expense award. No Settlement benefits or payments will be provided unless the Court approves the Settlement, and it becomes final.



**BASIC INFORMATION ..... PAGE 4**

1. Why is this Notice being provided?
2. What is this lawsuit about?
3. Why is the lawsuit a class action?
4. Why is there a Settlement?

**WHO IS INCLUDED IN THE SETTLEMENT?..... PAGE 5**

5. How do I know if I am part of the Settlement?
6. Are there exceptions to being included in the Settlement?
7. What if I am still not sure whether I am part of the Settlement?

**THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY..... PAGE 5**

8. What does the Settlement provide?
9. What am I giving up to receive Settlement benefits or stay in the Settlement Class?
10. What are the Released Claims?

**HOW TO GET BENEFITS FROM THE SETTLEMENT..... PAGE 7**

11. How do I make a claim for Settlement benefits?
12. What happens if my contact information changes after I submit a Claim Form?
13. When will I receive my Settlement benefits?

**THE LAWYERS REPRESENTING YOU ..... PAGE 7**

14. Do I have a lawyer in this case?
15. How will Settlement Class Counsel be paid?

**EXCLUDING YOURSELF FROM THE SETTLEMENT..... PAGE 8**

16. How do I get out of the Settlement?
17. If I exclude myself, can I get anything from this Settlement?
18. If I do not exclude myself, can I sue the Defendant for the same thing later?

**OBJECT TO THE SETTLEMENT ..... PAGE 9**

19. How do I tell the Court that I do not like the Settlement?
20. What is the difference between objecting and asking to be excluded?

**THE FINAL APPROVAL HEARING..... PAGE 10**

21. When and where will the Court decide whether to approve the Settlement?
22. Do I have to attend the Final Approval Hearing?
23. May I speak at the Final Approval Hearing?

**IF YOU DO NOTHING..... PAGE 11**

24. What happens if I do nothing at all?

**GETTING MORE INFORMATION ..... PAGE 11**

25. How do I get more information?

## BASIC INFORMATION

### 1. Why is this Notice being provided?

A federal Court authorized this Notice because you have the right to know about the proposed Settlement of a class action lawsuit and about your rights and options before the Court decides whether to grant final approval of the Settlement. This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for the benefits, and how to get them.

Judge Ricardo S. Martinez of the District Court for the Western District of Washington is overseeing this class action lawsuit. The case is known as *In re MCG Health Data Security Issue Litigation*, Case No. 2:22-cv-849-RSM-DWC. The people who filed this lawsuit are called the “Plaintiffs” or the “Representative Plaintiffs,” and the company sued is MCG Health, LLC (“MCG” or the “Defendant”).

### 2. What is this lawsuit about?

MCG is a Seattle-based company that provides patient-care guidelines and software solutions to health care providers and health plans across the country. In the course of its business, MCG received patient information from its clients and stored certain personally identifiable information (“PII”) and protected health information (“PHI”) (collectively “Personal Information”) of the Plaintiffs and the putative Class Members.

Plaintiffs and the putative Class Members allege that a data security incident occurred in approximately February 2020, where an unauthorized party accessed MCG’s computer systems and obtained certain personally identifiable information and protected health information (the “Data Incident”). The Personal Information includes patient names, genders, telephone numbers, addresses, email addresses, dates of birth, Social Security numbers, and medical code information. MCG and certain of its customers (i.e., health care providers or health plans) notified certain individuals that their Personal Information may have been the subject of the Data Incident.

No court or other entity has determined that MCG committed any wrongdoing or violated any law, and MCG denies all the legal claims asserted in the lawsuit. By settling the lawsuit, MCG is not admitting any wrongdoing or liability.

### 3. Why is the lawsuit a class action?

In a class action, a representative plaintiff or plaintiffs sue(s) on behalf of all people who have similar legal claims. Together all these people are called a settlement class or settlement class members. One court resolves the issues for all settlement class members, except for those settlement class members who timely exclude themselves from the settlement class.

The proposed Representative Plaintiffs in this case are Diana Saiki, Kenneth Hensley, as legal guardian of R.H., Linda Crawford, Julie Mack, Linda Booth, Candace Daugherty, Leo Thorbecke, Cynthia Strecker, Michael Price, Blanca Garcia, Joanne Mullins, Marjorita Dean, Kelly Batt, Jay Taylor, Shelley Taylor, and Gaye Ictech.

### 4. Why is there a Settlement?

Plaintiffs and MCG do not agree about the legal claims made in this lawsuit. The lawsuit has not gone to trial, and the Court has not decided in favor of Plaintiffs or MCG. Instead, Plaintiffs and MCG have agreed to settle the lawsuit. Plaintiffs and the lawyers for the Settlement Class (“Settlement Class Counsel”) believe the Settlement is best for all Settlement Class Members due to the risks and uncertainty associated with continuing the lawsuit.

## WHO IS INCLUDED IN THE SETTLEMENT?

Questions? Go to [www.xxxxxxxx.com](http://www.xxxxxxxx.com) or call 1-XXX-XXX-XXXX

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

Under the Settlement, the Court decided that the Class includes all United States residents whose personally identifiable information (PII) and/or protected health information (PHI) was accessed or acquired during the MCG Data Incident that MCG discovered on or about March 25, 2022.

## 6. Are there exceptions to being included in the Settlement?

Yes. Excluded from the Settlement Class are the Court and all members of the Court's staff, and persons who timely and validly request exclusion from the Settlement Class.

## 7. What if I am still not sure whether I am part of the Settlement?

If you are still not sure whether you are a Settlement Class Member, you may go to the Settlement Website at [www.xxxxxxxxxxxx.com](http://www.xxxxxxxxxxxx.com) or call the Claims Administrator's toll-free number at 1-XXX-XXX-XXXX.

# THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY

## 8. What does the Settlement provide?

If you are a Settlement Class Member, and you file a valid and timely Claim Form by **Month DD, 20YY**, you may be eligible for the following Settlement benefits:

**Documented Ordinary Losses** – Up to \$1,500 for documented unreimbursed out-of-pocket expenses fairly traceable to the Data Incident. Examples of Documented Ordinary Losses may include:

- Unreimbursed losses relating to fraud or identity theft;
- Out-of-pocket credit monitoring costs that were incurred on or after the Data Incident through the date of claim submission; and
- Unreimbursed bank fees, long distance phone charges, postage, or gasoline for local travel.

This list of reimbursable documented out-of-pocket expenses is not meant to be exhaustive. Settlement Class Members may make claims for any documented unreimbursed out-of-pocket losses reasonably related to the Data Incident or to dealing with the effects of the Data Incident. The Claims Administrator shall have discretion to determine whether any claimed loss is reasonably related to the Data Incident. Settlement Class Members with Ordinary Losses must submit documentation supporting their claims. This can include receipts or other documentation not “self-prepared” by the claimant that documents the costs incurred. “Self-prepared” documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but may be considered to add clarity or support to other submitted documentation.

**Documented Extraordinary Losses** – Compensation for extraordinary losses resulting from the Data Incident, up to \$10,000 by submitting a valid Claim Form and supporting documentation, provided that:

- The loss is an actual, documented, and unreimbursed monetary loss;
- The loss was more likely than not caused by the Data Incident;
- The loss occurred between February 25, 2020, and the Claims Deadline;
- The loss is not already covered by one or more of the normal reimbursement categories; and
- You made reasonable efforts to avoid the loss or seek reimbursement for the loss, including, but not limited to, exhaustion of all available credit monitoring insurance and identity theft insurance.

**Questions? Go to [www.xxxxxxxxxxxx.com](http://www.xxxxxxxxxxxx.com) or call 1-XXX-XXX-XXXX**

Extraordinary Losses may include, without limitation, the unreimbursed costs, expenses, losses or charges incurred as a result of identity theft or identity fraud, falsified tax returns, or other possible misuse of Personal Information. To receive reimbursement for any Documented Extraordinary Loss, you must submit supporting documentation of the loss and a description of how the loss is fairly traceable to the Data Incident, if not readily apparent from the documentation.

Please Note: Claims for Documented Ordinary Losses will be limited to \$1,500 combined. Claims for any Documented Extraordinary Losses will be limited to up to \$10,000. All cash payments may be adjusted *pro rata* depending on the number of Class Members that participate in the Settlement.

**Alternative Cash Payment** – As an alternative to filing a Claim Form for reimbursement of Ordinary Losses or Extraordinary Losses, you may submit a Claim Form to receive a *pro rata* (a legal term meaning an equal share) payment from the net Settlement Fund, which is \$8,800,000 minus payment of costs of the Settlement including the costs of the Notice Program and Claims Administration, any Attorneys’ Fees and Expenses of up to \$2,930,000, any Service Awards of up to \$2,500 for each to the Representative Plaintiffs, and payments for claims for Ordinary Losses, Credit Monitoring, and Extraordinary Losses. Please note that if costs of the Settlement, fees and expenses, service awards and payments for claims exceed the Settlement Fund, you may receive no payment if you select this category.

**Credit Monitoring** – In addition to payment for any Ordinary Losses, Extraordinary Losses, or an Alternative Cash Payment, you may elect to receive three years of free three-bureau credit monitoring through Kroll.

## 9. What am I giving up to receive Settlement benefits or stay in the Settlement Class?

Unless you exclude yourself, you are choosing to remain in the Settlement Class. If the Settlement is approved and becomes final, the Court’s orders will apply to you and legally bind you. You will not be able to sue, continue to sue, or be part of any other lawsuit against MCG or the Released Parties about the legal issues in this lawsuit that are released by this Settlement. The specific rights you are giving up are called “Released Claims.”

## 10. What are the Released Claims?

The Settlement Agreement in Section 10 describes the Release, Released Claims, and the Released Parties in necessary legal terminology, so please read this section carefully. The Settlement Agreement is available at [www.xxxxxxxx.com](http://www.xxxxxxxx.com) or in the public court records on file in this lawsuit. For questions regarding the Release and what it means, you can also contact one of the lawyers listed in Question 14 for free, or you can talk to your own lawyer at your own expense.

## HOW TO GET BENEFITS FROM THE SETTLEMENT

### 11. How do I make a claim for Settlement benefits?

To receive Settlement benefits, you must file a valid Claim Form. Your Claim Form must be complete and submitted to the Claims Administrator, submitted online or mailed and **postmarked** on or before **Month Day, 20YY**. Claim Forms may be submitted online at [www.xxxxxxxx.com](http://www.xxxxxxxx.com) or printed from the website and mailed to the Claims Administrator at the address on the form. The quickest way to submit a Claim Form is online. Claim Forms are also available by writing to:

Claims Administrator  
PO Box XXXX

**Questions? Go to [www.xxxxxxxx.com](http://www.xxxxxxxx.com) or call 1-XXX-XXX-XXXX**

CITY, STATE XXXXX-XXXX

**12. What happens if my contact information changes after I submit a claim?**

If you change your mailing address or email address after you submit a Claim Form, it is your responsibility to inform the Claims Administrator of your updated information. You may notify the Claims Administrator of any changes by calling 1-XXX-XXX-XXXX or by writing to:

Claims Administrator  
PO Box XXXX  
CITY, STATE XXXXX-XXXX

**13. When will I receive my Settlement Benefits?**

If you file a valid Claim Form, payment will be provided by the Claims Administrator after the Settlement is approved by the Court and becomes final.

It may take time for the Settlement to be approved and become final. Please be patient and check [www.xxxxxxxxxxxx.com](http://www.xxxxxxxxxxxx.com) for updates.

**THE LAWYERS REPRESENTING YOU**

**14. Do I have a lawyer in this case?**

Yes, the Court has appointed Jason T. Dennett of Tousley Brain Stephens PLLC, Gary M. Klinger of Milberg Coleman Bryson Phillips Grossman, PLLC, and Adam Polk of Girard Sharp LLP as Settlement Class Counsel to represent you and the Settlement Class for the purposes of this Settlement. You may hire your own lawyer at your own cost and expense if you want someone other than Settlement Class Counsel to represent you in this lawsuit.

**15. How will Settlement Class Counsel be paid?**

Settlement Class Counsel will file a motion asking the Court for reasonable attorneys' fees and their reasonable costs and expenses from the Settlement Fund not to exceed \$2,930,000. Settlement Class Counsel will also ask the Court to approve Service Awards of \$2,500 from the Settlement Fund for each of the Representative Plaintiffs for participating in this lawsuit and for their efforts in achieving the Settlement. The Court may award less than the amounts requested by Settlement Class Counsel. Settlement Class Counsel's application for reasonable attorneys' fees and expenses, and the Service Awards will be made available on the Settlement Website at [www.xxxxxxxxxxxx.com](http://www.xxxxxxxxxxxx.com) before the deadline for you to comment or object to the Settlement.

## EXCLUDING YOURSELF FROM THE SETTLEMENT

If you are a Settlement Class Member and you want to keep any right you may have to sue or continue to sue the Defendant or Released Parties on your own based on the legal claims raised in this lawsuit or released by the Released Claims, then you must take steps to get out of the Settlement. This is called excluding yourself from – or “opting-out” of – the Settlement.

### 16. How do I get out of the Settlement?

You may request to be excluded from the Settlement Class in writing by a request **postmarked**, or submitted electronically via the Settlement Website, on or before **Month DD, 20YY**. Your request must include the following:

- Your name, address, and telephone number;
- The name and number of this case, *In re MCG Health Data Security Issue Litigation*, Case No. 2:22-cv-0849-RSM-DWC;
- A statement that you wish to be excluded from the Settlement Class; and
- Your signature.

A request to be excluded that is incomplete, sent to an address other than designated below, or that is not electronically submitted or postmarked within the time specified, will be invalid and the person making the request will be considered a member of the Settlement Class and will be bound as a Settlement Class Member by the Settlement Agreement, if approved.

If sent by mail, your exclusion request must be **postmarked** and sent to the Claims Administrator at the following address by **Month Day, 20YY**:

Claims Administrator  
PO Box XXXX  
CITY STATE XXXXX-XXXX

If made electronically at the Settlement website, your request to be excluded must be made by **midnight Pacific Time on Month, DD, 20YY**.

### 17. If I exclude myself, can I still get anything from this Settlement?

No. If you exclude yourself, you are telling the Court you do not want to be part of the Settlement. You can only get benefits from the Settlement if you stay in the Settlement and submit a valid Claim Form.

### 18. If I do not exclude myself, can I sue the Defendant for the same thing later?

No. Unless you exclude yourself, you give up any right to sue MCG or Released Parties for the claims resolved by this Settlement. You must exclude yourself from this lawsuit to start or continue your own lawsuit or to be part of any other lawsuit against MCG or any of the Released Parties. If you have a pending lawsuit, speak to your lawyer in that case immediately.



## OBJECT TO THE SETTLEMENT

**19. How do I tell the Court that I do not like the Settlement?**

If you are a Settlement Class Member, you can tell the Court you do not agree with all or any part of the Settlement or the requested attorneys’ fees and expenses award or service awards. You can also give reasons why you think the Court should not approve the Settlement or the attorneys’ fees and expenses award or service awards.

To object, you must file a timely written notice of your objection, so it is **filed** or **postmarked** by **Month Day, 20YY**. Such notice must state:

- Your full name, address, telephone number and email address (if any);
- The name and number of this case, *In re MCG Health Data Security Issue Litigation*, Case No. 2:22-cv-0849-RSM-DWC;
- Information identifying you as a Settlement Class Member, including proof that you are a member of the Settlement Class;
- A statement as to whether the objection applies only to you as a Settlement Class Member, to a specific subset of the Settlement Class, or to the entire class;
- A clear and detailed written statement of the specific legal and factual bases for each and every objection, accompanied by any legal support for the objection you believe is applicable;
- The identity of any lawyers representing you as an objector;
- A statement whether you intend to appear at the Final Approval Hearing, either in person or through your lawyer, and, if through your lawyer, identifying that lawyer;
- A list of all persons who will be called to testify at the Final Approval Hearing in support of the objections and any documents to be presented or considered; and
- Your signature and the signature of your duly authorized lawyer or other duly authorized representative (if any).

To be timely, written notice of an objection in the appropriate form must be **filed** or sent to the Clerk of the Court for the District Court for the Western District of Washington **postmarked** by **Month Day, 20YY**, with copies sent at the same time to Settlement Class Counsel and MCG. The addresses for each are as follows:

THE COURT	SETTLEMENT CLASS COUNSEL	MCG
Office of the Clerk United States District Court for the Western District of Washington 700 Stewart Street, Suite 2310 Seattle, WA 98101	Jason T. Dennett <b>Tousley Brain Stephens PLLC</b> 1200 Fifth Avenue, Suite 1700 Seattle, WA 98101	Stephen L. Saxl <b>Greenberg Traurig, LLP</b> One Vanderbilt Avenue New York, NY 10017

**20. What is the difference between objecting and asking to be excluded?**

Objecting is simply telling the Court you do not like something about the Settlement or the requested attorneys’ fees and expenses award. You can object only if you stay in the Settlement Class (you do not exclude yourself). Requesting exclusion is telling the Court you do not want to be part of the Settlement Class or the Settlement. If you exclude yourself, you cannot object to the Settlement.

**Questions? Go to [www.xxxxxxxx.com](http://www.xxxxxxxx.com) or call 1-XXX-XXX-XXXX**

## THE FINAL APPROVAL HEARING

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

The Court will hold a Final Approval Hearing on **Month Day, 20YY, at X:XX a.m./p.m.** before Judge Ricardo S. Martinez, United States District Court for the Western District of Washington, 700 Stewart Street, Seattle, Washington, 98101, in Courtroom 13206.

At the Final Approval Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate and decide whether to approve: the Settlement, Settlement Class Counsel's application for reasonable attorneys' fees and their reasonable costs and expenses, and Service Awards. If there are objections, the Court will consider them. The Court will also listen to people who have asked to speak at the hearing. The Court can only approve or deny the Settlement Agreement. It cannot change the terms of the Settlement.

Note: The date and time of the Final Approval Hearing are subject to change. The Court may also decide to hold the hearing via videoconference or by phone. Any change will be posted at [www.xxxxxxxxxxx.com](http://www.xxxxxxxxxxx.com).

### 22. Do I have to attend the Final Approval Hearing?

No. Settlement Class Counsel will answer any questions the Court may have. However, you are welcome to attend at your own expense. If you file an objection, you do not have to attend the hearing to speak about it. As long as you file or mail your written objection on time, the Court will consider it.

### 23. May I speak at the Final Approval Hearing?

Yes, as long as you do not exclude yourself, you can (but do not have to) participate and speak for yourself at the Final Approval Hearing. This is called making an appearance. You also can have your own lawyer speak for you, but you will have to hire and pay for your own lawyer. If you choose to make an appearance, you must follow all of the procedures for objecting to the Settlement listed in Section 19 above and specifically include a statement whether you and your counsel will appear at the Final Approval Hearing.

## IF YOU DO NOTHING

### 24. What happens if I do nothing at all?

If you are a Settlement Class Member and you do nothing, you will not receive any Settlement benefits. You will give up rights explained in the "Excluding Yourself from the Settlement" section of this Notice, including your right to start or continue a lawsuit, or be part of any other lawsuit against MCG or any of the Released Parties about the legal issues in this lawsuit that are released by the Settlement Agreement.



## GETTING MORE INFORMATION

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

This Notice summarizes the proposed Settlement. Complete details are provided in the Settlement Agreement. The Settlement Agreement and other related documents are available at [www.xxxxxxxx.com](http://www.xxxxxxxx.com), by calling 1-XXX-XXX-XXXX, or by writing to:

Claims Administrator  
PO Box XXXX  
CITY STATE XXXXX-XXXX

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT'S CLERK OFFICE  
REGARDING THIS NOTICE.**

**Questions? Go to [www.xxxxxxxx.com](http://www.xxxxxxxx.com) or call 1-XXX-XXX-XXXX**

EXHIBIT C – SHORT FORM NOTICE

XXX Claims

Administrator

PO Box XXXX

XXXX, XX XXXXX-XXXX

### Court-Approved Legal Notice

**If your personal information was compromised as a result of a data security incident with MCG Health, LLC, you may be entitled to benefits from a settlement.**

<<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 MCG Health LLC (“MCG”) for a data security incident. MCG determined on or about March 25, 2022 that an unauthorized party previously obtained certain personally identifiable information and protected health information matching data on MCG’s systems (“Data Incident”). While the date the breach occurred is unknown, there is evidence to suggest the data may have been acquired in February 2020.

**You are receiving this notice because you may be a class member.** If you are a Settlement Class Member, you may file a Claim Form to receive **Credit Monitoring** for three years **AND**:

- **Documented Ordinary Losses** – Up to \$1,500 for documented out-of-pocket expenses fairly traceable to the Data Incident; or
- **Documented Extraordinary Losses** – Compensation for documented extraordinary losses resulting from the Data Incident, up to \$10,000. Please Note: Claims for Documented Ordinary Losses will be limited to \$1,500. Claims for Documented Extraordinary Losses will be limited to up to \$10,000. All cash payments may be adjusted pro rata depending on the number of Class Members that participate in the Settlement.

**OR** you can elect an **Alternative Cash Payment** – A *pro rata* (equal share) payment from the net Settlement Fund, which is \$8,800,000 minus payment of costs of the settlement including the costs of the Notice Program and Claims Administration, any Attorneys’ Fees and Expenses Award of up to \$2,930,000, any Service Awards of up to \$2,500 each to the Representative Plaintiffs, and payments for claims for Ordinary Losses and Extraordinary Losses. Note that if the costs of the settlement exceed the Settlement Fund, individuals selecting this option may not receive any payment.

**What are my options?** If you file a Claim Form, object to the Settlement, or do nothing, you are choosing to stay in the Settlement Class. To receive Settlement benefits, you must file a valid Claim Form. Your Claim Form must be submitted online at [www.xxxxxxxxxx.com](http://www.xxxxxxxxxx.com) or mailed and **postmarked** on or before **Month Day, 20YY**. If you do not exclude yourself, you may object to the Settlement and attorneys’ fees and expenses and service awards by **Month DD, 20YY**. If you don’t want to be legally bound by the Settlement or receive any benefits from it, you may request to be excluded from the Settlement Class in writing by a request **postmarked**, or submitted electronically via the Settlement Website, on or before **Month DD, 20YY**. Unless you exclude yourself, you give up any right to sue MCG or Released Parties for the claims resolved by this Settlement. If the Settlement is approved and becomes final, the Court’s orders will apply to you and legally bind you. You will not be able to sue, continue to sue, or be part of any other lawsuit against MCG or the Released Parties about the legal issues in this lawsuit that are released by this Settlement.

The Court will hold a Final Approval Hearing on **Month Day, 20YY, at X:XX a.m./p.m.** At the Final Approval Hearing, the Court will consider whether to approve the Settlement. If you do not exclude yourself, you can (but do not have to) participate and speak for yourself at the Final Approval Hearing. This is called making an appearance. You also can have your own lawyer speak for you, but you will have to hire and pay for your own lawyer.

This Notice is a summary. More information is available at [www.xxxxxxxxxx.com](http://www.xxxxxxxxxx.com) or by calling toll-free **1-xxx-xxx-xxxx**.

Exhibit D – Proposed Order on Preliminary Approval

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

In re MCG Health Data Security Issue  
Litigation

NO. 2:22-CV-00849-RSM-DWC

**[PROPOSED] ORDER GRANTING  
PLAINTIFFS' UNOPPOSED  
MOTION FOR PRELIMINARY  
APPROVAL OF CLASS ACTION  
SETTLEMENT**

This matter is before the Court on Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement (the "Motion") for consideration of whether the Court should grant preliminary approval of the proposed Settlement Agreement reached by the Parties (the "proposed Settlement"), preliminarily certify the proposed Settlement Class, and approve the proposed plan for notifying the Potential Settlement Class.<sup>1</sup>

Having reviewed the proposed Settlement, together with its exhibits, and based upon the relevant papers and all prior proceedings in this matter, the Court determines that the proposed Settlement satisfies the criteria for preliminary approval, the proposed Settlement Class is preliminarily certified, and the proposed Notice Program is approved. Accordingly, good cause

<sup>1</sup> Unless otherwise indicated, all capitalized terms used herein have the same meaning as those used in the Settlement Agreement (Exhibit 1 to the Declaration of Jason T. Dennett).

1 appearing in the record, Plaintiffs' Motion is **GRANTED**, and **IT IS HEREBY ORDERED**

2 **THAT:**

3 1. Stay of the Action. Pending the Final Approval Hearing, all proceedings in the  
4 Action, other than proceedings necessary to carry out or enforce the terms and conditions of the  
5 Settlement Agreement and this Order, are hereby stayed.

6 2. Jurisdiction. The Court has jurisdiction over the Parties, the subject matter of the  
7 dispute, and all Settlement Class Members.

8 3. Preliminary Class Findings. The Court preliminarily finds, for the purposes of  
9 settlement only, that this action meets all prerequisites of Rule 23 of the Federal Rules of Civil  
10 Procedure. The Court determines that for settlement purposes, the proposed Settlement Class  
11 meets all the requirements of Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure,  
12 namely that the class is so numerous that joinder of all members is impractical; there are common  
13 issues of law and fact; the claims of the Plaintiffs are typical of absent class members; Plaintiffs  
14 will fairly and adequately protect the interests of the class, and have no interests antagonistic to  
15 or in conflict with the class, and have retained Class Counsel who are experienced and competent  
16 counsel to prosecute this matter; common issues predominate over any individual issues; and a  
17 class action is the superior means of adjudicating the controversy.  
18  
19

20 The Court finds the proposed Settlement is fair, reasonable, and adequate, in accordance  
21 with Rule 23(e) of the Federal Rules of Civil Procedure, pending a final hearing on the Settlement  
22 as provided herein. The Court further finds that the Settlement was negotiated at arm's length by  
23 informed and experienced counsel, who were overseen by an experienced and impartial mediator.  
24 The relief provided to the Settlement Class under the Settlement is adequate. There would be  
25  
26

1 substantial costs, risks and delay associated with proceeding to trial and potential appeal. The  
2 method proposed for distributing relief to the Settlement Class and processing claims is adequate  
3 and effective. Finally, the Court finds that the proposed Settlement treats Settlement Class  
4 Members equitably relative to each other.

5 The Settlement meets the criteria for approval, and warrants issuance of notice to the  
6 Settlement Class. Accordingly, the Court preliminarily approves the terms of the Settlement  
7 Agreement.

8  
9 4. Preliminary Certification of Settlement Class. The Court hereby certifies, for  
10 settlement purposes only, the following Settlement Class:

11 All United States residents whose personally identifiable  
12 information (PII) and/or protected health information (PHI) was  
13 accessed or acquired during the MCG data security incident that  
MCG discovered on or about March 25, 2022.

14 Excluded from the Settlement Class are the Court and all members of the Court's staff, and  
15 persons who timely and validly request exclusion from the Settlement Class.

16  
17 5. Appointment of Class Representatives. Plaintiffs ("Named Plaintiffs") are  
18 designated and appointed as the Settlement Class Representatives pursuant to Rule 23(a) of the  
19 Federal Rules of Civil Procedure. The Court preliminarily finds, for settlement purposes only,  
20 that Named Plaintiffs will fairly and adequately represent the interests of the Class in enforcing  
21 their rights in the Action; that Named Plaintiffs are similarly situated to absent Settlement Class  
22 Members; that Named Plaintiffs have Article III standing to pursue their claims; and that Named  
23 Plaintiffs are therefore typical of the Class and will be adequate class representatives.

24  
25 6. Appointment of Class Counsel. For purposes of the Settlement, the Court appoints  
26 Jason T. Dennett of Tousley Brain Stephens PLLC, Gary M. Klinger of Milberg Coleman Bryson



1 Phillips Grossman, PLLC, and Adam Polk of Girard Sharp LLP as Class Counsel pursuant to  
2 Fed. R. Civ. P. 23(g) to act on behalf of the Settlement Class Representatives and the Settlement  
3 Class with respect to the Settlement. The Court finds that these lawyers are experienced and will  
4 adequately protect the interests of the Settlement Class.

5 7. Notice Provider and Settlement Administrator. The Court appoints Kroll  
6 Settlement Administration LLC as Settlement Administrator to administer the notice procedure  
7 and the processing of claims, under the supervision of Class Counsel and oversight of this Court.  
8

9 8. Notice Plan. The Notice Plan set forth in the Settlement Agreement, and the form  
10 and content of the notice to class members as set forth in Exhibits A-C thereto, satisfy the  
11 requirements of Federal Rule of Civil Procedure 23 and are thus approved. The Court finds that  
12 the form, content, and method of giving notice to the Settlement Class as described in the Notice  
13 Plan submitted with the Motion for Preliminary Approval: (a) constitute the best practicable  
14 notice to the Settlement Class; (b) are reasonably calculated, under the circumstances, to apprise  
15 Settlement Class Members of the pendency of the Action, the terms of the proposed Settlement,  
16 and their rights under the proposed Settlement; (c) are reasonable and constitute due, adequate,  
17 and sufficient notice to those persons entitled to receive notice; and (d) satisfy the requirements  
18 of Federal Rule of Civil Procedure 23, the constitutional requirement of due process, and any  
19 other legal requirements. The Court further finds that the notices are written in plain language,  
20 use simple terminology, and are designed to be readily understandable by Settlement Class  
21 Members.  
22

23  
24 Non-material modifications to the notices may be made without further order of the  
25 Court. The Settlement Administrator is directed to carry out the Notice Plan in conformance with  
26

1 the Settlement Agreement and to perform all other tasks that the Settlement Agreement requires.  
2 Prior to the Final Approval Hearing, Class Counsel shall cause to be filed with the Court an  
3 appropriate declaration with respect to complying with the provisions of the Notice Plan.

4 9. Notice Date. The Court directs that the Settlement Administrator cause a copy of  
5 the Notice to be mailed to all Potential Settlement Class Members in the manner outlined in the  
6 Settlement Agreement. The mailing is to be made by first class United States mail within thirty  
7 (30) calendar days following the entry of the Preliminary Approval Order (the “Notice Date”).  
8 The Settlement Website shall include, and make available for download, copies of the Settlement  
9 Agreement and Long Form Notice.  
10

11 10. Funds Held by Settlement Administrator. All funds held by the Settlement  
12 Administrator shall be deemed and considered to be *in custodia legis* of the Court and shall  
13 remain subject to the jurisdiction of the Court until such time as the funds are distributed pursuant  
14 to the Settlement or further order of the Court.  
15

16 11. Deadline to Submit Claim Forms. Settlement Class Members will have until 120  
17 calendar days from the Notice Date to submit their claim forms (“Claims Deadline”), which is  
18 adequate and sufficient time.

19 12. Exclusion from the Settlement Class. Any Settlement Class Member that wishes  
20 to be excluded from the Settlement Class must mail a Request for Exclusion to the Settlement  
21 Administrator at the addresses provided in the Notice, postmarked no later than the Deadline to  
22 Opt-Out, as specified on the Notice, and sent via first class postage pre-paid U.S. mail, or submit  
23 a Request for Exclusion through the Settlement Website no later than the Deadline to Opt-Out.  
24 The Request for Exclusion must: a) state the Settlement Class Member’s full name, address, and  
25  
26

1 telephone number; (b) state the name and number of this case, *In re MCG Health Data Security*  
2 *Issue Litigation*, Case No. 2:22-cv-0849-RSM-DWC; (c) contain the Settlement Class Member's  
3 personal and original signature or the original signature of a person authorized by law to act on  
4 the Settlement Class Member's behalf with respect to a claim or right such as those asserted in  
5 the Litigation, such as a trustee, guardian or person acting under a power of attorney; and (d)  
6 state unequivocally the Settlement Class Member's intent to be excluded from the settlement. All  
7 Requests for Exclusion must be submitted individually in connection with a Settlement Class  
8 Member, *i.e.*, one request is required for every Settlement Class Member seeking exclusion.  
9

10 Any Settlement Class Member who does not timely and validly exclude themselves from  
11 the Settlement shall be bound by the terms of the Settlement. If final judgment is entered, any  
12 Settlement Class Member who has not submitted a timely, valid written notice of exclusion from  
13 the Settlement Class shall be bound by all subsequent proceedings, orders, and judgments in this  
14 matter, including but not limited to the release set forth in the Settlement Agreement and  
15 incorporated in the Judgment.  
16

17 13. Objections and Appearances. Any Settlement Class Member may enter an  
18 appearance in the Action, at his or her own expense, individually or through counsel of his or her  
19 own choice. If a Settlement Class Member does not enter an appearance, they will be represented  
20 by Class Counsel.

21 Any Settlement Class Member who wishes to object to the Settlement, the Settlement  
22 benefits, Service Awards, and/or the Attorneys' Fees and Expenses, or to appear at the Final  
23 Approval Hearing and show cause, if any, why the Settlement should not be approved as fair,  
24 reasonable, and adequate to the Settlement Class, why a Final Approval Order and Judgment  
25  
26

1 should not be entered thereon, why the Settlement benefits should not be approved, or why the  
2 Service Awards and/or the Attorneys' Fees and Expenses should not be granted, may do so, but  
3 must proceed as set forth in this paragraph. No Settlement Class Member will be heard on such  
4 matters unless they have filed in this Action the objection, together with any briefs, papers,  
5 statements, or other materials the Settlement Class Member wishes the Court to consider, within  
6 ninety (90) calendar days following the Notice Date. Any objection must include: i) the objector's  
7 full name, address, telephone number, and e-mail address (if any); (ii) the name and number of  
8 this case, *In re MCG Health Data Security Issue Litigation*, Case No. 2:22-cv-0849-RSM-DWC;  
9 (iii) information identifying the objector as a Settlement Class Member, including proof that the  
10 objector is a member of the Settlement Class; (iv) a statement as to whether the objection applies  
11 only to the Settlement Class Member, to a specific subset of the Settlement Class, or to the entire  
12 class; (v) a clear and detailed written statement of the specific legal and factual bases for each  
13 and every objection, accompanied by any legal support for the objection the objector believes  
14 applicable; (vi) the identity of any counsel representing the objector; (vii) a statement whether  
15 the objector intends to appear at the Final Approval Hearing, either in person or through counsel,  
16 and, if through counsel, identifying that counsel; (viii) a list of all persons who will be called to  
17 testify at the Final Approval Hearing in support of the objections and any documents to be  
18 presented or considered; and (ix) the objector's signature and the signature of the objector's duly  
19 authorized attorney or other duly authorized representative (if any). In addition to the foregoing  
20 requirements, if an objecting Settlement Class Member intends to speak at the Final Approval  
21 Hearing (whether pro se or through an attorney), the written objection must include a detailed  
22 description of any evidence the objecting Settlement Class Member may offer at the Final  
23  
24  
25  
26

1 Approval Hearing, as well as copies of any exhibits the objecting Settlement Class Member may  
2 introduce at the Final Approval Hearing. Any Settlement Class Member who fails to object to  
3 the Settlement in the manner described in the Settlement Agreement and in the notice provided  
4 pursuant to the Notice Plan shall be deemed to have waived any such objection, shall not be  
5 permitted to object to any terms or approval of the Settlement at the Final Approval Hearing, and  
6 shall be precluded from seeking any review of the Settlement or the terms of the Settlement  
7 Agreement by appeal or any other means.  
8

9 With leave of Court for good cause shown, the Parties may take discovery of an objector  
10 or an objector's counsel. Any Settlement Class Member that fails to comply with the provisions  
11 in this Order will waive and forfeit any and all rights it may have to object, and shall be bound  
12 by all the terms of the Settlement, this Order, and by all proceedings, orders, and judgments,  
13 including, but not limited to, the releases in the Settlement, if finally approved. Any Potential  
14 Settlement Class Member who both objects to the Settlement and submits a Request for  
15 Exclusion will be deemed to have opted-out and the objection shall be deemed null and void.  
16

17 14. Final Approval Hearing. A hearing will be held by this Court in the Courtroom of  
18 The Honorable Ricardo S. Martinez, United States District Court for the Western District of  
19 Washington, United States Courthouse, 700 Stewart Street, Suite 13206, Seattle, WA 98101-  
20 9906 at \_\_\_\_\_ .m. on \_\_\_\_\_, 2024 ("Final Approval Hearing"), to  
21 determine: (a) whether the Settlement should be approved as fair, reasonable, and adequate to the  
22 Class; (b) whether the Final Approval Order should be entered; (c) whether the Settlement  
23 Agreement should be approved as fair, reasonable, and adequate to the Settlement Class;  
24 (d) whether to approve the application for service awards for the Named Plaintiffs ("Service  
25  
26

1 Awards”) and an award of attorneys’ fees and litigation expenses (“Fee Award and Costs”); and  
 2 (e) any other matters that may properly be brought before the Court in connection with the  
 3 Settlement. The Final Approval Hearing is subject to continuation or adjournment by the Court  
 4 without further notice to the Class. The Court may approve the Settlement with such  
 5 modifications as the Parties may agree to, if appropriate, without further notice to the Class.

6 15. Final Approval Briefing. All opening briefs and supporting documents in support  
 7 of a request for Final Approval of the Settlement and Settlement benefits must be filed and served  
 8 at least fourteen (14) days prior to the Final Approval Hearing. All briefing and supporting  
 9 documents in support of an application for Attorneys’ Fees and Expenses and Service Awards  
 10 must be filed fourteen (14) days prior to the Objection Deadline. The deadline to file responses,  
 11 if any, to any objections, and any replies in support of final approval of the Settlement and/or  
 12 Class Counsel’s application for attorneys’ fees, costs, and expenses and for Service Awards must  
 13 be filed and served at least four (4) days prior to the Final Approval Hearing.  
 14

15 16. CAFA Notice. Prior to the Final Approval Hearing, Class Counsel and Defendant  
 16 shall cause to be filed with the Court an appropriate affidavit or declaration with respect to  
 17 complying with the provision of notice pursuant to the Class Action Fairness Act, 28 U.S.C.  
 18 § 1715(b), as set forth in Section 6.1 of the Settlement Agreement.  
 19

20 17. Summary of Deadlines. In sum, the Court enters the following deadlines:

Action	Date
Defendant Provides Class List	Within 10 business days following entry of this Order
Notice Deadline	30 days following entry of this Order
Motion for Attorneys’ Fees, Costs, and Service Awards Due	14 days prior to the Objection Deadline
Exclusion/Opt-Out Deadline	90 days after the Notice Deadline

1	Objection Deadline	90 days after the Notice Deadline
2	Motion for Final Approval Due	14 days prior to the Final Approval Hearing
3	Reply in Support of Motion for attorneys' fees, costs, and for Service Awards and Final Approval Motion	4 days prior to the Final Approval Hearing
4	Final Approval Hearing	(To be scheduled no earlier than 120 days after entry of this order).
5	Deadline to Submit Claims	120 days after the Notice Date
6		

7           18.    Extension of Deadlines. Upon application of the Parties and good cause shown,  
8 the deadlines set forth in this Order may be extended by order of the Court, without further notice  
9 to the Settlement Class. Settlement Class Members must check the Settlement website  
10 (www.XXXXXX.com) regularly for updates and further details regarding extensions of these  
11 deadlines. The Court reserves the right to adjourn or continue the Final Approval Hearing, and/or  
12 to extend the deadlines set forth in this Order, without further notice of any kind to the Settlement  
13 Class.

14           19.    Conditional Nature of Certification and Use of this Order. If the Settlement is not  
15 finally approved by the Court, this Order shall become null and void and shall be without  
16 prejudice to the rights of the Parties, all of which shall be restored to their respective positions  
17 existing immediately before this Court entered this Order. In such event, the Settlement shall  
18 become null and void and be of no further force and effect, and neither the Settlement (including  
19 any Settlement-related filings) nor the Court's orders, including this Order, relating to the  
20 Settlement shall be construed or used as an admission, concession, or declaration by or against  
21 Defendants of any fault, wrongdoing, breach, or liability; shall not be construed or used as an  
22 admission, concession, or declaration by or against any Settlement Class Representative or any  
23 other Settlement Class Member that its claims lack merit or that the relief requested is  
24  
25  
26

1 inappropriate, improper, and unavailable; and shall not constitute a waiver by any party of any  
2 defense (including, without limitation, any defense to class certification) or claims it may have  
3 in this Litigation or in any other lawsuit.

4  
5 IT IS SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

6  
7  
8 \_\_\_\_\_  
9 Hon. Ricardo S. Martinez  
Senior U.S. District Court Judge

10 Presented by:

11  
12 **TOUSLEY BRAIN STEPHENS PLLC**

13  
14 By: \_\_\_\_\_  
15 Jason T. Dennett, WSBA #30686  
16 Rebecca L. Solomon, WSBA #51520  
17 1200 Fifth Avenue, Suite 1700  
18 Seattle, WA 98101-3147  
Tel: (206) 682-5600/Fax: (206) 682-2992  
*jdennett@tousley.com*  
*rsolomon@tousley.com*

19 **MILBERG COLEMAN BRYSON PHILLIPS**  
20 **GROSSMAN, PLLC**

21 By: \_\_\_\_\_  
22 Gary M. Klinger (Admitted *Pro Hac Vice*)  
23 227 W. Monroe Street, Suite 2100  
24 Chicago, IL 60606  
Telephone: 866.252.0878  
*gklinger@milberg.com*

25 **GIRARD SHARP LLP**



1 By: \_\_\_\_\_  
2 Adam E. Polk (Admitted *Pro Hac Vice*)  
3 Simon Grille (Admitted *Pro Hac Vice*)  
4 Jessica Cook (Admitted *Pro Hac Vice*)  
5 601 California Street, Suite 1400  
6 San Francisco, CA 94108  
7 Telephone: (415) 981-4800  
8 Facsimile: (415) 981-4846  
9 apolk@girardsharp.com  
10 sgrille@girardsharp.com  
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12 *Counsel for Plaintiffs*

## Exhibit E – Non-Monetary Relief

Subsequent to the Data Security Incident, in addition to its preexisting cybersecurity measures, MCG has taken or continued to take measures including the following:

1. Worked with leading third-party cybersecurity firm to deploy additional advanced intrusion detection and prevention tools.
2. Implementation of enhanced detection and monitoring of unauthorized activity in the environment.
3. Retained third-party cybersecurity companies to assist with regular vulnerability scans.
4. Implemented third-party tool that monitors malicious activity.
5. Implemented third-party platform that monitors authentication activities to detect malicious account activity.
6. Implemented third-party tool for domain name system (DNS) protection, limiting access to websites where there is a substantial risk of malware.
7. Engaged independent third-parties to conduct regular penetration tests in the MCG environment.
8. Invested in long-term projects to mitigate risk.
9. Hired three additional full-time employees to support internal cybersecurity team.
10. Accelerated and completed migration of customer databases to a cloud environment.
11. Adopted additional encryption technologies.
12. Enhanced disaster recovery capabilities.
13. Improved logging capabilities, including by sending network and system logs and alerts to a centralized location for 24/7 monitoring.

14. Augmented access controls.
15. Implemented enhanced complexity requirements for passwords to certain critical environments.
16. Increased the frequency of account reviews to confirm access is role-based and appropriate.
17. Implemented a company-wide password reset post-incident.
18. Obtained HITRUST Risk-based, 2-year (r2) Certification.