

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT
CASE TYPE: CIVIL/OTHER MISCELLANEOUS
Court File No.: 27-CV-24-10788

In re: MNGI Digestive Health, PA

**CORRECTED ORDER GRANTING
PLAINTIFFS' UNOPPOSED MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT AND
CLASS NOTICE PLAN**

This matter comes before the Court on Plaintiffs' Motion for Preliminary Approval of Class Action Settlement and Class Notice Plan ("Motion"). The Court has reviewed the Motion and the Settlement Agreement entered into by Plaintiffs Sammie Lee Austin, Michele Margaret Dagenais, Dirk Hackett, Kathleen Schroeder and Debra Soberg ("Plaintiffs") and Defendant MNGI Digestive Health, P.A. ("Defendant"), and it finds that the Motion should be **GRANTED**.¹

IT IS HEREBY ORDERED THAT:

1. The Settlement Agreement and the proposed notice plan, including the Short Notice, Long Notice, Reminder Notice, Settlement Website and Claim Form, the appointment of Plaintiffs Sammie Lee Austin, Michele Margaret Dagenais, Dirk Hackett, Kathleen Schroeder and Debra Soberg as the Class Representatives, the appointment of Class Counsel for Plaintiffs and the Class, the appointment of Epiq Class Action & Claims Solutions, Inc. as the Settlement Administrator, the Class Relief provided under the terms of the Settlement Agreement and

¹ Capitalized terms used herein, but not defined herein, shall have the meaning ascribed to such terms in the Settlement Agreement.

proposed method of distribution of Settlement Agreement benefits are fair, reasonable and adequate, subject to further consideration at the Final Fairness Hearing described below.

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

All individuals to whom Defendant sent notice of the security incident that Defendant experienced on or about August 20, 2023.

The Class specifically excludes:

- (i) all Persons who timely and validly request exclusion from the Class;
- (ii) the Judge assigned to evaluate the fairness of this Settlement Agreement (including any members of the Court's staff assigned to this case);
- (iii) Defendant's officers and directors, and
- (iv) any other Person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity occurrence of the Data Incident or who pleads *nolo contendere* to any such charge.

3. Based upon information provided and solely for settlement purposes, the Court preliminarily finds: the Class is ascertainable and satisfies numerosity; there are common questions of law and fact, including whether Defendant's Data Incident potentially compromised Plaintiffs' and Class Members' personal identifying information and personal health information (collectively, "Private Information"), satisfying commonality; the proposed Class Representatives' claims are typical, in that they are Class Members and allege they received notice from Defendant that their Private Information was potentially compromised in Defendant's Data Incident, thereby alleging they have been damaged by the same conduct as other Class Members; the proposed Class Representatives and Class Counsel will fully, fairly and adequately protect the interests of the Class; questions of law and fact common to Members of the Class predominate over questions

affecting only individual members for settlement purposes; and a class action is superior to other available methods for the fair and efficient adjudication of this Litigation.

4. The Court preliminarily appoints Sammie Lee Austin, Michele Margaret Dagenais, Dirk Hackett, Kathleen Schroeder and Debra Soberg as the Class Representatives.

5. The Court preliminarily appoints Raina Borrelli (Strauss Borrelli PLLC), Christopher P. Renz (Chestnut Cambronne PA), Brian Gudmundson (Zimmerman Reed LLP), E. Michelle Drake (Berger Montague PC), Melissa Weiner (Pearson Warshaw, LLP), Kate Baxter-Kauf (Lockridge Grindal Nauen PLLP), Nathan Prosser (Hellmuth & Johnson PLLC) and David Goodwin (Gustafson Gluek PLLC) as Class Counsel.

6. The Court appoints Epiq Class Action & Claims Solutions, Inc. as Settlement Administrator.

7. The Court approves, as to the form and content, the proposed notice plan, including the Short Notice, Long Notice, Reminder Notice, Settlement Website and Claim Form, as compliant with due process as the notices, form and manner of transmission are reasonably calculated to adequately apprise Class Members of the following:

- (a) a fair summary of the Parties' respective litigation positions,
 - (b) statements that the Settlement Agreement and notice of settlement are legitimate and that the Class Members are entitled to benefits under the Settlement Agreement
 - (c) the general terms of the settlement set forth in the Settlement Agreement,
 - (d) instructions for how to object to or opt-out of the Settlement Agreement,
 - (e) instructions for how to obtain the Settlement Agreement benefits,
 - (f) the process and instructions for making claims to the extent contemplated herein,
- and

(g) the date, time and place of the Final Fairness Hearing.

8. The Notice Date shall be thirty (30) days after the entry of this Order Granting Plaintiffs' Motion for Preliminary Approval Of Class Action Settlement and Class Notice Plan.

9. In order to be a Valid Claim under the Settlement Agreement, a Claim Form must be postmarked or submitted online no later than ninety (90) days after the Notice Date. The Settlement Administrator will ensure that all specific dates and deadlines are included in the notices and posted on the Settlement Website after this Court enters this Order in accordance with the settlement timeline below.

10. All requests to Opt-Out of the proposed Settlement Agreement must be postmarked to be sent to the Settlement Administrator no later than sixty (60) days after the Notice Date. For an Opt-Out to be valid, the written notice of intent must be individually signed by the Class Member and clearly: (i) state the Class Member's full name, current address, and signature; and (ii) manifest the Person's intent to opt-out of the Class.

11. All objections to the proposed Settlement Agreement must be postmarked to be sent to the Settlement Administrator or filed by Class Members with the Court no later than sixty (60) days after the Notice date. For an objection to be valid, the written notice of objection shall state: (i) the objector's full name, telephone number, and address; (ii) the case name and docket number, *In re MNGI Digestive Health, PA*, No. 27-CV-24-10788; (iii) information identifying the objector as a Class Member, including proof that the objector is a Member of the Class (*e.g.*, copy of the objector's settlement notice, copy of original notice of the Data Incident or a statement explaining why the objector believes they are a Class Member); (iv) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable; (v) the identity of any and all counsel representing the objector in connection with the

objection; (vi) a statement whether the objector and/or their counsel will appear at the Final Fairness Hearing; and (vii) the objector's signature or the signature of the objector's duly authorized attorney or other duly authorized representative (if any) representing them in connection with the objection.

12. Any Class Member who fails to comply with the requirements for objecting shall waive and forfeit any and all rights they may have to appear separately and/or to object to the Settlement Agreement and shall be bound by all the terms of the Settlement Agreement and by all proceedings, orders and judgments in the Litigation.

13. Any Class Member who did not opt-out of the Settlement Agreement, including Plaintiffs, shall be deemed to have, and by operation of the Judgment shall have, fully, finally and forever released, relinquished and discharged all Released Claims as against all Released Persons.

14. Based on the foregoing, the proposed form of notice, including the Short Notice, Long Notice, Reminder Notice, Settlement Website and Claim Form are hereby approved.

15. Immaterial revisions to the proposed notice program, including the Short Notice, Long Notice, Reminder Notice, Settlement Website and Claim Form, may also be made prior to dissemination of notice.

16. The Court approves the implementation of the notice plan, including the Short Notice, Long Notice, Reminder Notice, Settlement Website and Claim Form, substantially in the form as presented in the exhibits to the Motion, and finds that such notice program meets the requirements of Minn. R. Civ. P. 23 and due process, and is the best notice practicable under the circumstances, including emailed or mailed notice at addresses provided by Defendant, the best party available to hold this information, and a Settlement Website, and shall constitute due and efficient notice to all persons or entities entitled to notice.

17. A Final Fairness Hearing shall be held before the Court on September 4, 2025 at 9:00 a.m. for the following purposes:

- a. To determine whether the proposed Settlement Agreement on the terms and conditions provided for by the Agreement is fair, reasonable, and adequate to the Class and should be approved by the Court;
- b. To determine whether a Final Approval Order and Judgment, as defined in the Agreement, should be entered;
- c. To determine whether the notice plan as implemented was appropriate and whether the claims process under the Settlement Agreement is fair and reasonable, and should be approved by the Court;
- d. To determine whether Plaintiffs' Motion for Attorneys' Fees, Costs and Expenses, and Service Awards, should be approved; and
- e. To rule upon such other matters as the Court may deem appropriate.

18. The Court hereby sets the below schedule for the dissemination of notice to the Class and for the Court's Final Fairness Hearing, at which time the Court will determine whether the Settlement Agreement should be finally approved as fair, reasonable and adequate. The Final Fairness Hearing may be held remotely, and if so, instructions will be posted on the Settlement Website.

SETTLEMENT TIMELINE

<u>From Order Granting Preliminary Approval</u>	<u>Day 0</u>
Defendant provides list of Class Members to the Settlement Administrator	On or before the Preliminary Approval Order date
Notice Date	+30 days
Counsel's Motion for Attorneys' Fees, Costs and Expenses, and Class Representative Service Awards	+39 days after the Notice Date
Objection & Opt-Out Date	+60 days after the Notice Date
Reminder Notice	+60 days after the Notice Date
Settlement Administrator Provide List of Objections/Opt-Outs to the Parties' counsel	+7 days after the Opt-Out Date
Claims Deadline	+90 days after the Notice Date
<u>Final Fairness Hearing</u>	+100 (at minimum) from Order Granting Preliminary Approval
Motion for Final Approval	-14 days

19. In the event that the Settlement Agreement, including the releases, are not approved by the Court or the settlement set forth in the Settlement Agreement is terminated in accordance with its terms, (i) the Settling Parties shall be restored to their respective positions in the Litigation and shall jointly request that all scheduled Litigation deadlines be reasonably extended by the Court so as to avoid prejudice to any Settling Party or Settling Party's counsel, and (ii) the terms and provisions of the Settlement Agreement shall have no further force and effect with respect to the Settling Parties and shall not be used in the Litigation or in any other proceeding for any purpose, and any Judgment or order entered by the Court in accordance with the terms of the Settlement Agreement shall be treated as vacated, *nunc pro tunc*.

20. This Order and the Settlement Agreement, and any of their terms, and all negotiations, discussions, and proceedings in connection with this Order and the Settlement

Agreement, shall not constitute evidence, or an admission by Defendant that any acts of wrongdoing have been committed and shall not be deemed to create any inference that there is any liability on the part of Defendant. This Order and the Settlement Agreement, and any of their terms, and all negotiations, discussions and proceedings in connection with this Order and the Settlement Agreement shall not be offered or received in evidence or used for any purpose in this or any other proceeding in any court, administrative agency, arbitration tribunal, or other forum of any kind of character in the United States or any other country except as necessary to enforce the terms of this Order or the Settlement Agreement.

21. The Court reserves the right to adjourn the date of the Final Fairness Hearing without further notice to the Class Members and retains jurisdiction to consider all further applications or matters arising out of or connected with the proposed Settlement Agreement. The Court may approve the Settlement Agreement, with such modifications as may be agreed to by the Plaintiffs and Defendant, if appropriate, without further notice to the Class.

IT IS SO ORDERED.

DATED: May 7, 2025

The Honorable Nelson Peralta
Judge of Hennepin County District Court