

## **SETTLEMENT AGREEMENT AND RELEASE**

This Settlement Agreement and Release (“Settlement Agreement” or “Agreement”) is entered into by and between Jeanette Coniglio (“Plaintiff”), individually and on behalf of the Participating Settlement Class Members (as defined in Paragraph 24), and CareNet Medical Group, PC, (“Defendant” or “CareNet”) (collectively the “Parties”), in the action *Jeanette Coniglio et al. v. CareNet Medical Group, PC.*, (Index No. 2024-1351)(Sup. Ct. Schenectady Co.) filed on June 28, 2024 (the “Action”).

### **RECITALS**

WHEREAS, on October 23, 2023, Plaintiff filed a Complaint against Defendant in the United States District Court for the Northern District of New York related to a data breach incident (the “Data Breach”) affecting Defendant. Plaintiff voluntarily dismissed that claim without prejudice on March 24, 2024;

WHEREAS, on June 28, 2024, Plaintiff filed her claims against Defendant related to the Data Breach in the in the Supreme Court of Schenectady County, New York;

WHEREAS, Defendant denies the allegations and causes of action pled in the Action and otherwise denies any liability to Plaintiff in any way; and

WHEREAS, following prolonged and extensive arm’s length negotiations, the Parties reached an agreement of the essential terms of a settlement;

WHEREAS this Agreement is for settlement purposes only, and nothing in this Agreement shall constitute, be construed as, or be admissible in evidence as any admission of the validity of any claim or fact alleged by Plaintiff in this Action or in any other pending or subsequently filed action, or of any wrongdoing, fault, violation of law, or liability of any kind on the part of Released Parties or admission of the validity or lack thereof of any claim, allegation, or defense asserted in this Action or any other action.

NOW, THEREFORE, in exchange for the mutual promises and valuable consideration provided for in this Agreement, the Parties agree to a full, complete, and final settlement and resolution of the Action and any and all Released Claims (including Unknown Claims), subject to Court approval, on the following terms and conditions:

### **I. DEFINITIONS**

In addition to terms defined elsewhere in this Agreement, the following defined terms shall have the meanings set forth below:

1. “Alternative Cash Payment” means the \$50.00 cash payment that Settlement Class Members can elect in the alternative to claims for Ordinary Losses, Lost Time or Extraordinary Losses.

2. “Approved Claim” means the timely submission of a Claim Form by a Participating Settlement Member that has been approved by the Settlement Administrator or otherwise through the Claims Review Process.

3. “Defendant’s Counsel” means Rivkin Radler LLP and McDonald Hopkins, LLC.

4. “Claim Form” or “Claim” means the form(s) Participating Settlement Class Members must submit to be eligible for Credit Monitoring Services, Extraordinary Losses, Ordinary Loss, Lost Time or the Alternative Cash Payment under the terms of the Settlement, which form is attached hereto as **Exhibit 3**, or form(s) approved by the Court substantially similar to **Exhibit 3**.

5. “Claims Deadline” means the deadline by which Settlement Class Members must submit valid Claim Form(s), which deadline is ninety (90) days after the Notice Deadline.

6. “Claims Period” means the period of time during which Settlement Class Members may submit Claim Forms, which will end ninety (90) days after the Notice Deadline.

7. “Claims Review Process” means the process for reviewing and determining whether claims are valid as set forth in Paragraph 46.

8. “Court” means the Circuit Court for the Eleventh Judicial Circuit in and for Miami-Dade County, Florida.

9. “Credit Monitoring Services” means the credit monitoring services described in Paragraph 42, which include three (3) years of one-bureau credit monitoring and \$1 million in identity theft protection insurance, among other features.

10. “Effective Date” means one business day following the latest of: (i) the date upon which the time expires for filing or noticing any reconsideration or appeal of the Final Approval Order and Judgment, or entry of the Final Approval Order and Judgment if no person or entity has standing to appeal or seek reconsideration; (ii) if there is an appeal or appeals or reconsideration sought, the date on which the Final Approval Order and Judgment is affirmed without any material modification and is no longer subject to judicial review; or (iii) the date of final dismissal of any appeal or reconsideration or the final dismissal of any proceeding on certiorari with respect to the Final Approval Order and Judgment, and the Final Approval Order and Judgment is no longer subject to judicial review. Notwithstanding the above, any order modifying or reversing any attorneys’ fees, costs, and expenses or Service Award to a Class Representative shall not affect the “Effective Date” or any other aspect of the Final Approval Order and Judgment.

11. “Extraordinary Losses” means monetary losses that meet the following conditions: (i) is an actual, documented and unreimbursed monetary loss caused by (ii) was more likely than not caused by the Security Incident; (iii) occurred between May 9, 2022 and Claims Deadline; and (iv) is not already covered by the Ordinary Loss or Lost Time categories and the Settlement Class Member made reasonable efforts to avoid, or seek reimbursement for, the loss, including but not

limited to exhaustion of all of the Settlement Class Member's credit monitoring insurance and identity theft insurance.

12. "Fee Award and Costs" means the amount of attorneys' fees and reimbursement of Litigation Costs and Expenses awarded by the Court to Settlement Class Counsel in satisfaction of any request or claim for payment of attorneys' fees, costs, and litigation expenses in connection with this Action.

13. "Final Approval Order and Judgment" means an order and judgment substantially in the form attached hereto as **Exhibit 5** that the Court enters, which finally approves the Settlement Agreement, certifies the Settlement Class, dismisses the Action with prejudice, and otherwise satisfies the settlement-related provisions of the New York Rules of Civil Procedure and is consistent with all material provisions of this Agreement.

14. "Final Approval Hearing" means the hearing to be conducted by the Court to determine the fairness, adequacy, and reasonableness of the Settlement pursuant to N.Y. CPLR 901 and whether to issue the Final Approval Order and Judgment.

15. "Litigation Costs and Expenses" means costs and expenses incurred by Settlement Class Counsel and their law practices in connection with commencing, prosecuting, and settling the Action.

16. "Lost Time" means time Settlement Class Members spent monitoring accounts or otherwise dealing with issues related to the Security Incident, up to a maximum of four (4) hours at \$25/hour, supported by an attestation that the activities were related to the Security Incident, as set forth in Paragraph 43. Lost Time reimbursement will be counted against the \$500 per individual cap under Ordinary Losses.

17. "Notice" means notice of the proposed class action Settlement to be provided to Settlement Class Members, substantially in the forms attached hereto as **Exhibit 1** ("Short Form Notices") and **Exhibit 2** ("Long Form Notice")

18. "Notice Deadline" means the last day by which Notice must issue to the Settlement Class Members and will occur no later than thirty (30) days after entry of the Preliminary Approval Order.

19. "Notice and Administrative Expenses" means all of the expenses incurred in the administration of this Settlement, including, without limitation, all expenses or costs associated with providing Notice to the Settlement Class, locating Settlement Class Members, performing National Change of Address search(es) and/or skip tracing for undeliverable notices, processing claims, determining the eligibility of a person to be a Settlement Class Member, and administering, calculating and distributing payments to Settlement Class Members who submit valid Claim Forms. Notice and Administrative Expenses also includes all reasonable fees and expenses incurred by the Settlement Administrator in administering the terms of this Agreement.

20. “Objection Deadline” is the last day on which a Settlement Class Member may file an objection to the Settlement, which will be sixty (60) days after the Notice Deadline.

21. “Opt Out” means a Settlement Class Member (i) who timely submits a properly completed and executed Request for Exclusion, (ii) who does not rescind that Request for Exclusion prior to the Opt-Out Deadline, and (iii) as to which there is not a successful challenge to the Request for Exclusion.

22. “Opt-Out Deadline” is the last day on which a Settlement Class Member may submit a Request for Exclusion, which will be sixty (60) days after the Notice Deadline.

23. “Ordinary Loss” means documented expenses and fees incurred or spent as a result of the Security Incident, including (i) bank fees, long distance phone charges, cell phone charges (only if charged by the minute), data charges (only if charged based on the amount of data used), postage, or gasoline for local travel; and (ii) fees for credit reports, credit monitoring, or identity insurance purchased between May 9, 2022 and the date of the close of the Claims Period.

24. “Participating Settlement Class Member” means a Settlement Class Member who does not submit a valid Request for Exclusion prior to the Opt-Out Deadline, as set forth in Paragraph 55.

25. “Personal Information” means information that identifies an individual or in combination with other information can be used to identify, locate, or contact an individual. The term “Personal Information” is not intended here, nor should it be viewed as, having any bearing on the meaning of this term or similar term in any statute or other source of law beyond this Agreement, or how the Parties may use the term in other circumstances.

26. “Preliminary Approval Order” means an order directing issuance of Notice to Settlement Class Members, determining that the Court will likely be able to approve the Settlement under New York Civil Practice Law and Rules, and determining that the Court will likely be able to certify the Settlement Class for purposes of resolving this Action. Such order will include the forms and procedure for providing notice to the Settlement Class, including notice of the procedure for Settlement Class Members to object to or opt-out of the Settlement, and set a date for the Final Approval Hearing, substantially in the form annexed hereto as **Exhibit 4**.

27. “Released Claims” means any and all claims, liabilities, rights, demands, suits, actions, causes of action, obligations, damages, penalties, costs, attorneys’ fees, losses, and remedies of every kind or description—whether known or unknown (including Unknown Claims), existing or potential, suspected or unsuspected, asserted or unasserted, liquidated or unliquidated, legal, statutory, or equitable—that relate to or arise from the Security Incident, the operative facts alleged in the Action, including the complaint and any amendment thereto, Defendant’s information security policies and practices, or Defendant’s maintenance or storage of Personal Information, regardless of whether such claims arise under federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law.

28. “Released Parties” means Defendant and each and every of its respective predecessors, successors, assigns, parents, subsidiaries, divisions, departments, owners, and related or affiliated entities of any nature whatsoever, whether direct or indirect, as well as any and all of Defendant’s and these entities’ respective predecessors, successors, officers, directors, employees, advisors, vendors, stockholders, partners, agents, attorneys, representatives, insurers, reinsurers, subrogees and assigns. Each of the Released Parties may be referred to individually as a “Released Party.”

29. “Releasing Parties” and a “Releasing Party” means the Settlement Class Representative and Participating Settlement Class Members, and each of their respective heirs, executors, administrators, representatives, agents, partners, predecessors, successors, attorneys, assigns, and any other person purporting to assert a claim on their behalf.

30. “Request for Exclusion” means a writing by or on behalf of a Settlement Class Member in which he or she requests to be excluded from the Settlement Class in the form and manner provided for in the Notice and as described below in Paragraph 55.

31. “Security Incident” means the cybersecurity incident affecting Defendant which occurred on or near May 9, 2022, to June 4, 2022.

32. “Service Award Payment” means compensation awarded by the Court and paid to the Settlement Class Representative in recognition of her role in this Action as set forth in Paragraph 68.

33. “Settlement” means the settlement of the Action by and between the Parties, and the terms thereof as stated in this Settlement Agreement.

34. “Settlement Administrator” means RG/2 Claims Administration, subject to Court approval.

35. “Settlement Class” means all individuals residing in the United States whose Personal Information was compromised in the Data Breach experienced by CareNet in or around May 2022 to June 2022, including all those who received notice of the breach.

36. “Settlement Class Counsel” means James Bilsborrow of Weitz & Luxenberg, PC and Cassandra P. Miller of Strauss Borrelli PLLP.

37. “Settlement Class List” means the list of the names and current or last known address information for Settlement Class Members Defendant used to inform individuals of the Security Incident, to the extent reasonably available, which Defendant shall provide to the Settlement Administrator within fifteen (15) days of entry of the Preliminary Approval Order.

38. “Settlement Class Member” means an individual who falls within the definition of the Settlement Class.

39. “Settlement Class Representative” means Jeanette Coniglio.

40. “Settlement Payment” or “Settlement Check” mean the payment to be made via mailed check or via electronic means (agreed to by the Parties) to a Participating Settlement Class Member pursuant to the claims process set forth in Paragraph 47.

41. “Settlement Website” means the website the Settlement Administrator will establish and use to provide Settlement Class Members with information about the Settlement and relevant case documents and deadlines, as set forth in Paragraph 53.

## **II. SETTLEMENT BENEFITS AND REIMBURSEMENT**

42. **Credit Monitoring Services.** Settlement Class Members shall be offered an opportunity to enroll in three years of Credit Monitoring Services to include credit monitoring through one national reporting bureau provided through CyEx with at least \$1,000,000 in identity theft insurance.

43. **Cash Benefits.** Defendant will pay Approved Claims for Credit Monitoring Services, Extraordinary Losses, Ordinary Loss, Lost Time or an Alternative Cash Payment as described below. Settlement Class Members who submit a valid and timely Claim Form may choose from all applicable claim categories (a) through (c) or, alternatively, category (d) below.

a. **Claims for Compensation of Ordinary Losses** up to a total of \$500.00 per claimant upon submission of a valid documented claim, such as the following losses:

- i. *Out of pocket expenses incurred* as a result of the Security Incident, including, bank fees, long distance phone charges, cell phone charges (only if charged by the minute), data charges (only if charged based on the amount of data used), postage, or gasoline for local travel; and
- ii. *Fees for credit reports, credit monitoring or other identity theft insurance products* purchased between May 9, 2022 and the date of the close of the Claims Period (as defined below);

b. **Claims for Compensation of Lost Time** up to 4 hours at a rate of \$25.00 per hour (for a total of \$100.00) per claimant upon submission of a valid documented claim for Lost Time, provided they include a brief description of the activities engaged in, the time spent on each such activity, and an attestation on the Claim Form that the activities they performed were related to the Security Incident. Claims for Lost Time are subject to the \$500.00 cap for Ordinary Losses.

c. **Claims for Extraordinary Losses** up to a total of \$5,000.00 per Settlement Class Member in compensation on submission of a valid and timely claim form for monetary losses that meet the following conditions:

- i. The loss is an actual, documented, and unreimbursed monetary loss;

- ii. The loss was more likely than not caused by the Security Incident;
- iii. The loss was incurred after May 9, 2022;
- iv. The loss is not already covered by one or more of the other reimbursement categories; and
- v. The Settlement Class Member made reasonable efforts to avoid, or seek reimbursement for, the loss, including but not limited to exhaustion of all available credit monitoring insurance and identity theft insurance.

- d. **Alternative Cash Payment.** In the alternative to a claim for Ordinary Losses and Lost Time, Extraordinary Losses, and/or Credit Monitoring, Settlement Class Members can elect a \$50.00 Alternative Cash Payment.

44. **Business Practice Commitments.** Defendant will provide a confidential declaration to Settlement Class Counsel describing its information security enhancements since the Security Incident and estimating, to the extent reasonably calculable, the annual cost of those enhancements. The cost of such enhancements will be paid by Defendant separate and apart from all other settlement benefits.

### **III. CLAIMS PROCESS AND PAYMENTS TO PARTICIPATING SETTLEMENT CLASS MEMBERS**

45. **Submission of Electronic and Hard Copy Claims.** Settlement Class Members may submit Claim Forms to the Settlement Administrator electronically with their unique identifier via the Settlement Website or physically by mail to the Settlement Administrator. Any potential Claimant who loses or does not receive a unique identifier may call the Settlement Administrator, and upon validation of their status as a Settlement Class Member by the Settlement Administrator, have their unique identifier issued or re-issued (as the case may be). Alternatively, a potential Claimant who lacks a unique identifier may submit a Claim Form for consideration to the Settlement Administrator in paper format by mail. Claim Forms must be submitted electronically or postmarked on or before the Claims Deadline. The Settlement Administrator will maintain records of all Claim Forms submitted until the later of (a) one hundred and eighty (180) Days after the Effective Date or (b) the date all Claim Forms have been fully processed in accordance with the terms of this Agreement. Information submitted by Settlement Class Members in connection with Claim Forms shall be deemed confidential and protected as such by the Settlement Administrator, Settlement Class Counsel, and Defendant's Counsel.

46. **Claims Review Process.** The Settlement Administrator shall have the sole discretion and authority to determine whether and to what extent a claim for Credit Monitoring Services, Ordinary Losses, Lost Time, or Extraordinary Losses is valid.

- a. The Settlement Administrator will verify that each person who submits a Claim Form is a member of the Settlement Class.
- b. The Settlement Administrator will determine that each Claim Form submitted by a Settlement Class Member was submitted during the Claims Period and is timely.

- c. In determining whether claimed Ordinary Losses and Extraordinary Losses are more likely than not caused by the Security Incident, the Settlement Administrator will consider (i) the timing of the alleged loss and whether it occurred on or after May 9, 2022; (ii) whether the alleged loss for the specific Participating Settlement Class Member, involved the types of information for that individual that may have been affected in the Security Incident; (iii) the explanation of the Settlement Class Member as to why the alleged loss was caused by the Security Incident; and (iv) other factors the Settlement Administrator reasonably finds to be relevant.
- d. The Settlement Administrator is authorized to contact any Settlement Class Member (by e-mail, telephone, or U.S. mail) to seek clarification regarding a submitted claim prior to making a determination as to its validity.
- e. No decision of the Settlement Administrator shall be deemed to constitute a finding, admission, or waiver by Defendant as to any matter of fact, law, or evidence having any collateral effect on any proceedings in any forum or before any authority.
- f. To the extent the Settlement Administrator determines that a timely claim for Credit Monitoring Services, Ordinary Losses, Lost Time, or Extraordinary Losses by a Settlement Class Member is deficient in whole or in part, the Settlement Administrator shall notify the Settlement Class Member of the deficiencies and provide the Settlement Class member twenty-one (21) days to cure the deficiencies. If the Settlement Administrator subsequently determines that the Settlement Class Member has not cured the deficiencies, the Settlement Administrator will notify the Settlement Class Member within ten (10) days of that determination. The Settlement Administrator may consult with the Parties in making these determinations.
- g. If a Settlement Class Member receives notice that the Settlement Administrator has determined that the deficiencies it identified have not been cured, the Settlement Class Member may request an appeal in writing, including any supporting documents. The appeal must be submitted within twenty-one (21) days of the Settlement Administrator sending the notice. In the event of an appeal, the Settlement Administrator shall provide the Parties with all relevant documentation regarding the appeal. The Parties will confer regarding the appeal. If they agree on a disposition of the appeal, that disposition will be final and non-appealable. If they cannot agree on disposition of the appeal, the dispute will be submitted to a mutually agreed-upon third party neutral who will serve as the claims referee. If the Parties cannot agree on a claims referee, the Parties will submit proposals to the Court, and the Court shall have final, non-appealable authority to designate the claims referee. The decisions of the claims referee regarding the validity of claims will be final and non-appealable.

**47. Payment.**

- a. After the Effective Date, and after final determinations have been made with respect to all claims submitted during the Claims Period pursuant to the Claims Review Process, the Settlement Administrator shall provide the Parties an accounting of all



Approved Claims for Credit Monitoring Services, Ordinary Losses, Lost Time, or Extraordinary Losses and also provide funding instructions to Defendant. Within forty-five (45) days of receiving this accounting, Defendant or its representative shall transmit the funds needed to pay Approved Claims for Credit Monitoring Services, Ordinary Losses, Lost Time, or Extraordinary Losses in accordance with the terms of this Agreement.

- b. Payments issued by the Settlement Administrator for Approved Claims for Ordinary Losses, Lost Time, or Extraordinary Losses shall be issued in the form of a check, or via electronic means (through means agreed to by the Parties) and sent as soon as practicable after the Settlement Administrator receives the funds described in Paragraph 47.a. No payments will be issued without authorization from the Parties.
- c. All Settlement Class Members who fail to submit a valid Claim Form for any benefits under this Agreement within the time frames set forth herein, or such other period as may be ordered by the Court, shall be forever barred from receiving any payments or benefits pursuant to the Settlement, but will in all other respects be subject to and bound by the provisions of this Agreement, including but not limited to the releases contained herein, and the Final Approval Order and Judgment.

48. **Timing.** Settlement Checks shall bear the legend that they expire if not negotiated within ninety (90) days of their issue date.

49. **Returned Checks.** For any Settlement Check returned to the Settlement Administrator as undeliverable, the Settlement Administrator shall, within thirty (30) days after the check is returned to the Settlement Administrator as undeliverable, send an e-mail and/or telephone that Participating Settlement Class Member to obtain updated address information. Any replacement Settlement Checks issued to Participating Settlement Class Members shall remain valid and negotiable for sixty (60) days from the date of issuance and thereafter will automatically be canceled and deemed void if not cashed by the Participating Settlement Class Members within that time.

50. **Voided Checks.** In the event a Settlement Check becomes void, the Participating Settlement Class Member to whom that Settlement Check was made payable will forfeit the right to payment and will not be entitled to payment under the Settlement, and the Agreement will in all other respects be fully enforceable against the Participating Settlement Class Member. No later than one hundred and twenty (120) days after the issuance of the last Settlement Check, the Settlement Administrator shall take all steps necessary to stop payment on any Settlement Checks that remain uncashed.

51. **Deceased Class Members.** If the Settlement Administrator is notified that a Participating Settlement Class Member is deceased, the Settlement Administrator is authorized to reissue the Settlement Check to the Participating Settlement Class Member's estate upon receiving proof the Participating Settlement Class Member is deceased and after consultation with Settlement Class Counsel and Defendant's Counsel.

#### **IV. SETTLEMENT CLASS NOTICE**

52. **Timing of Notice.** Within fifteen (15) days after entry of the Preliminary Approval Order, Defendant shall provide the Settlement Class List to the Settlement Administrator. Within thirty (30) days after entry of the Preliminary Approval Order, the Settlement Administrator shall disseminate the Short Form Notice to Settlement Class Members for whom it has a valid email address or mailing address. The Settlement Administrator shall make the Long Form Notice and Claim Form available to Settlement Class Members on the Settlement Website.

53. **Form of Notice.** Notice shall be disseminated via email or, if a valid email address is not available, postcard through First Class U.S. mail to Settlement Class Members on the Settlement Class List. Notice shall also be provided on the Settlement Website. The Notice mailed to Settlement Class Members will consist of a Short Form Notice in a form substantially similar to that attached hereto as **Exhibit 1**. The Settlement Administrator shall have discretion to format the Short Form Notice in a reasonable manner to minimize mailing and administrative costs. Before Notices are mailed or emailed, Settlement Class Counsel and Defendant's Counsel shall first be provided with a proof copy (reflecting what the items will look like in their final form) and shall have the right to inspect the same for compliance with the Settlement Agreement and any orders of the Court. For Notices sent via email that bounce back as undelivered, the Settlement Administrator shall send a postcard notice through First Class U.S. Mail to the Settlement Class Member, to the extent a valid mailing address exists. For Notices sent via postcard that are returned as undeliverable, the Settlement Administrator shall use reasonable efforts (e.g., skip trace) to identify an updated mailing address and resend the postcard notice if an updated mailing address is identified. In addition, the Long Form Notice and Claim Form approved by the Court may be adjusted by the Settlement Administrator in consultation and agreement with the Parties, as may be reasonable and necessary and not inconsistent with such Court approval. The claims administrator will also use targeted media publications to provide Notice to the Settlement Class Members for whom the parties do not have contact information.

54. **Settlement Website.** The Settlement Administrator will establish the Settlement Website as soon as practicable following entry of the Preliminary Approval Order, but prior to dissemination of the Notice. The Settlement Website shall contain relevant documents, including, but not limited to, the Long Form Notice, the Claim Form, this Agreement, Plaintiff's motion for preliminary approval of the Settlement, the Preliminary Approval Order, Plaintiff's motion for an award of attorneys' fees, costs and expenses, and service awards, and the operative complaint in the Action. The Settlement Website shall also include a toll-free telephone number, e-mail address, and mailing address through which Settlement Class Members may contact the Settlement Administrator directly. The Settlement Website shall not include any advertising and shall remain operational until at least sixty (60) days after all Settlement Payments have been distributed.

55. **Cost of Notice and Administration.** Defendant will pay for the Notice and Administrative Expenses, which will be paid separately from costs associated with providing the Settlements benefits in Paragraphs 42-43. The costs of Notice and Administrative Expenses will be subject to a not to exceed amount.

## **V. OPT-OUTS AND OBJECTIONS**

56. **Opt-Outs.** The Notice shall explain the procedure for Settlement Class Members to exclude themselves or “opt-out” of the Settlement by submitting a Request for Exclusion to the Settlement Administrator postmarked no later than sixty (60) days after the Notice Deadline. The Notice also must state that any Settlement Class Member who does not file a timely Request for Exclusion in accordance with this paragraph will lose the opportunity to exclude himself or herself from the Settlement and will be bound by the Settlement.

- a. The Request for Exclusion must include the name of the proceeding, the individual’s full name, current address, personal signature, and the words “Request for Exclusion” or a comparable statement that the individual does not wish to participate in the Settlement at the top of the communication.
- b. No person shall purport to exercise any exclusion rights of any other person, or purport (a) to opt-out Settlement Class Members as a group, in the aggregate, or as a class; or (b) to opt-out more than one Settlement Class Member on a single Request for Exclusion, or as an agent or representative. Any such purported Request(s) for Exclusion shall be void, and the Settlement Class Member(s) who is or are the subject of such purported Request(s) for Exclusion shall be treated as a Participating Settlement Class Member and be bound by this Settlement Agreement, including the Release contained herein, and judgment entered thereon, unless he or she submits a valid and timely Request for Exclusion.
- c. Within seven (7) days after the Opt-Out Deadline, the Settlement Administrator shall provide the Parties with a complete and final list of all Opt-Outs who have submitted a Request for Exclusion and have timely and validity excluded themselves from the Settlement Class and, upon request, copies of all Requests for Exclusion received.
- d. All persons who Opt Out shall not receive any benefits or be bound by the terms of this Agreement. All persons falling within the definition of the Settlement Class who do not Opt Out shall be bound by the terms of this Agreement and the Final Approval Order and Judgment.

57. **Objections.** The Notice shall explain the procedure for Settlement Class Members to object to the Settlement or request for attorneys’ fees and Litigation Costs and Expenses by filing written objections with the Court no later than the Objection Deadline. The written objection must include (i) the name of the proceedings; (ii) the Settlement Class Member’s full name, current mailing address, and telephone number; (iii) a statement that states with specificity the grounds for the objection, as well as any documents supporting the objection; (iv) a statement as to whether the objection applies only to the objector, to a specific subset of the Settlement Class, or to the entire Settlement Class; (v) the identity of any attorneys representing the objector; (vi) a statement regarding whether the Settlement Class Member (or his/her attorney) intends to appear at the Final Approval Hearing; and (vii) a list of all other matters in which the objecting Settlement Class Member and/or his/her attorney has lodged an objection to a class action settlement; and (viii) the signature of the Settlement Class Member or the Settlement Class Member’s attorney. The

Settlement Class Member shall also send a copy of the written objection to the Settlement Administrator postmarked or emailed no later than the Objection Deadline. Any Settlement Class Member who does not file a timely and adequate objection in accordance with this paragraph waives the right to object or to be heard at the Final Approval Hearing and shall be forever barred from making any objection to the Settlement and shall be bound by the terms of the Agreement and by all proceedings, orders, and judgments in the Action. The exclusive means for any challenge to the Agreement shall be through the provisions of this paragraph. Within seven (7) days after the Objection Deadline, the Claims Administrator shall provide the Parties with all objections submitted.

## **VI. DUTIES OF THE SETTLEMENT ADMINISTRATOR**

58. **Duties of Settlement Administrator.** The Settlement Administrator shall perform the functions and duties necessary to effectuate the Settlement and as specified in this Agreement, including, but not limited to, the following:

- a. Obtaining the Settlement Class List for the purpose of disseminating Notice to Settlement Class Members;
- b. Causing the Notice Program to be effectuated in accordance with the terms of this Settlement Agreement and orders of the Court;
- c. Performing National Change of Address searches on the Settlement Class List and/or skip tracing on undeliverable notices;
- d. Providing Notice to Settlement Class Members via U.S. mail and/or e-mail;
- e. Providing Notice to Settlement Class Members via targeted media publications;
- f. Establishing and maintaining the Settlement Website;
- g. Establishing and maintaining a toll-free telephone line with interactive voice response for Settlement Class Members to call with Settlement-related inquiries, and answering the questions of Settlement Class Members who call with or otherwise communicate such inquiries in a timely fashion;
- h. Responding to any mailed or emailed Settlement Class Member inquiries in a timely fashion;
- i. Reviewing, determining the validity of, and processing all claims submitted consistent with the terms of this Agreement;
- j. Receiving and reviewing Requests for Exclusion and objections from Settlement Class Members. If the Settlement Administrator receives any Requests for Exclusion, objections, or other requests from Settlement Class Members after the deadlines set

forth herein, the Settlement Administrator shall promptly provide copies thereof to Settlement Class Counsel and Defendant's Counsel;

- k. Working with the provider of Credit Monitoring Services to receive and send activation codes to Settlement Class Members who submitted valid claims for Credit Monitoring Services after the Effective Date;
- l. After the Effective Date, processing and transmitting Settlement Payments to Settlement Class Members;
- m. Providing weekly or other periodic reports to Settlement Class Counsel and Defendant's Counsel that include information regarding claims, objections, Opt Outs and other data agreed to between Settlement Class Counsel, Defendant's Counsel and the Settlement Administrator;
- n. In advance of the Final Approval Hearing, preparing an affidavit to submit to the Court that: (i) attests to implementation of Notice in accordance with the Preliminary Approval Order; and (ii) identifies each Settlement Class Member who timely and properly submitted a Request for Exclusion; and
- o. Performing any function related to settlement administration as provided for in this Agreement or agreed-upon instruction of Settlement Class Counsel, Defendant's Counsel, including, but not limited to, verifying that Settlement Payments have been distributed.

## **VII. PRELIMINARY APPROVAL, FINAL APPROVAL, AND JURISDICTION**

59. **Certification of the Settlement Class.** For purposes of this Settlement only, and in the context of this Agreement only, the Parties stipulate to the certification of the Settlement Class, which is contingent upon the Court entering the Final Approval Order and Judgment of this Settlement and the occurrence of the Effective Date. Excluded from the Settlement Class are (i) Defendant, its officers and directors; (ii) all Settlement Class Members who timely and validly request exclusion from the Settlement Class; (iii) any judges assigned to this case and their staff and family; 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 Security Incident or who pleads *nolo contendere* to any such charge. Should: (1) the Settlement not receive final approval from the Court, (2) the Effective Date not occur, or (3) the Agreement is otherwise terminated, the certification of the Settlement Class shall be void, and neither the Agreement nor any order or other action relating to the agreement shall be offered by any person as evidence or cited in support of a motion to certify a class for any purpose other than this Settlement. Defendant reserves the right to contest class certification for all other purposes. The Parties further stipulate to designate the Settlement Class Representative as the representative for the Settlement Class.

60. **Preliminary Approval.** Following execution of this Agreement, Settlement Class Counsel shall file a motion for preliminary approval of this Settlement with the Court. Settlement

Class Counsel shall provide Defendant's counsel with a draft of the motion for preliminary approval within a reasonable time frame prior to filing same to ensure that any requested revisions from Defendant are addressed. The proposed Preliminary Approval Order shall be in the form attached as **Exhibit 4**.

61. **Final Approval.** Settlement Class Counsel shall move the Court for a Final Approval Order and Judgment of this Settlement, to be issued following the Final Approval Hearing, substantially in the form set forth in **Exhibit 5**. Counsel for the Parties shall request that the Court set a date for the Final Approval Hearing no earlier than 120 days after entry of the Preliminary Approval Order. Settlement Class Counsel shall provide Defendant's counsel with a draft of the motion for final approval within a reasonable time frame prior to filing same to ensure that any requested revisions from Defendant are addressed.

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

## **VIII. MODIFICATION AND TERMINATION**

63. **Modification.** The terms and provisions of this Agreement may be amended, modified, or expanded by written agreement of the Parties and approval of the Court; provided, however, that, after entry of the Preliminary Approval Order, the Parties may, by written agreement, effect such amendments, modifications, or expansions of this Agreement and its implementing documents (including all exhibits hereto) without further notice to the Settlement Class or approval by the Court if such changes are consistent with the Court's Preliminary Approval Order and do not materially alter, reduce, or limit the rights of Settlement Class Members or Defendant under this Agreement.

64. **Termination.** If more than 50 members of the Settlement Class exclude themselves from the settlement (i.e., opt-out), Defendant, in its sole discretion, may terminate this settlement. Defendant will bear all costs for which it is responsible under this settlement through the date of termination, including all costs and fees then due and owing to the Settlement Administrator. For the avoidance of doubt, Defendant will not be obligated to pay attorneys' fees and costs or service award if Defendant terminates the settlement under this provision. Additionally, Settlement Class Counsel (on behalf of the Settlement Class Members) and Defendant shall have the right to terminate this Agreement by providing written notice of their or its election to do so ("Termination Notice"): (1) within fourteen (14) days of the Court's refusal to grant preliminary approval of the Settlement in any material respect; or (2) within fourteen (14) days of either of the following: (a) the Court's refusal to enter the Final Approval Order and Judgment in any material respect, or (b)

the date the Final Approval Order and Judgment is modified or reversed in any material respect by any appellate or other court.

65. **Effect of Termination.** In the event of a termination as provided in Paragraph 63, this Agreement shall be considered null and void, all of the Parties' obligations under the Agreement shall cease to be of any force and effect, and the Parties shall return to the status quo ante in the Action as if the Parties had not entered into this Agreement. In addition, in the event of such a termination, all of the Parties' respective pre-Settlement claims and defenses will be preserved. Any Court orders preliminarily or finally approving certification of the Settlement Class and any other orders entered pursuant to the Agreement shall be deemed null and void and vacated. If either party voids the Settlement Agreement, that party will be obligated to pay all settlement expenses already incurred, excluding any attorneys' fees, costs, and expenses of the other party.

## **IX. RELEASES**

66. **The Release.** Upon the Effective Date, and in consideration of the Settlement benefits described herein, each Releasing Party shall be deemed to have completely and unconditionally released, acquitted, and forever discharged Defendant and each of the Released Parties from any and all Released Claims, including Unknown Claims.

67. **Unknown Claims.** The Released Claims include the release of Unknown Claims. "Unknown Claims" means claims that could have been raised in the Action and claims Releasing Parties do not know or suspect to exist, which, if known by him, her or it, might affect his, her or its agreement to release the Released Parties or the Released Claims or might affect his, her or its decision to agree, object or not to object to the Settlement. Upon the Effective Date, the Releasing Parties shall be deemed to have, and shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Upon the Effective Date, each-Releasing Party shall be deemed to have, and shall have, waived any and all provisions, rights, and benefits conferred by any law of any state, the District of Columbia or territory of the United States, by federal law, or principle of common law, or the law of any jurisdiction outside of the United States, which is similar, comparable or equivalent to Section 1542 of the California Civil Code. The Releasing Parties acknowledge that they may discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of the Released Claims or relation of the Released Parties thereto, but that it is their intention to finally and forever settle and release the Released Claims, including but not limited to any Unknown Claims they may have, as that term is defined in this paragraph. The

Parties acknowledge, and the Releasing Parties shall be deemed by operation of the Agreement to have acknowledged, that the foregoing waiver is a material term of the Agreement.

68. **Bar to Future Suits.** Upon entry of the Final Approval Order and Judgment, the Settlement Class Representative and other Participating Settlement Class Members shall be enjoined from initiating, asserting, or prosecuting any and all Released Claims, including Unknown Claims, in any proceeding against any of the Released Parties or based on any actions taken by any of the Released Parties that are authorized or required by this Agreement or by the Final Approval Order and Judgment. It is further agreed that the Settlement may be pleaded as a complete defense to any proceeding subject to this Section.

## **X. SERVICE AWARD PAYMENTS**

69. **Service Award Payments.** At least fourteen (14) days before the Opt-Out and Objection Deadlines, Settlement Class Counsel will file a motion seeking a service award payment for the Settlement Class Representative in recognition for her contributions to this Action. Defendant agrees not to oppose Settlement Class Counsel's request for a service award not to exceed Two Thousand Five Dollars and Zero Cents (\$2,500.00). To the extent more than \$2,500.00 in service awards is sought for the Settlement Class Representative, Defendant reserves all rights to object and oppose such a request. Defendant shall pay the Court-approved service award to an account established by Settlement Class Counsel within thirty (30) days after the Effective Date. Settlement Class Counsel will ensure payment instructions are provided through secure processes. Settlement Class Counsel will then distribute the service award. Defendant's obligations with respect to the Court-approved service award shall be fully satisfied upon transmission of the funds into the account established by Settlement Class Counsel. Defendant shall have no responsibility for, interest in, or liability whatsoever with respect to any distribution or allocation of service awards. Nor shall Defendant be responsible for any tax obligations or payments associated with the amount paid into the account established by Settlement Class Counsel. To the extent the Effective Date does not occur, Defendant shall have no obligation to pay any service awards. This amount was negotiated after the primary terms of the settlement were negotiated.

70. **No Effect on Agreement.** The finality or effectiveness of the Settlement, including the Final Approval Order and Judgment, shall not depend on the amount or timing of service awards approved and awarded by the Court or any appeal thereof. The amount and timing of service awards is intended to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement. No decision by the Court, or modification or reversal or appeal of any decision by the Court, concerning the amount of the service awards shall constitute grounds for termination of this Agreement.

## **XI. ATTORNEYS' FEES, COSTS, EXPENSES**

71. **Attorneys' Fees and Costs and Expenses.** At least fourteen (14) days before the Opt-Out and Objection Deadlines, Settlement Class Counsel will file a motion for an award of attorneys' fees and litigation costs and expenses, as well as Service Awards, to be paid by Defendant. Defendant agrees not to oppose Settlement Class Counsel's request for an award of attorneys' fees not to exceed One Hundred Eighty Thousand Dollars (\$180,000.00), and



documented Litigation Costs and Expenses not to exceed Five Thousand (\$5,000.00). If Settlement Class Counsel seeks more than \$180,000.00 in attorneys' fees and/or more than \$5,000.00 in documented Litigation Costs and Expenses, Defendant reserves all rights to object and oppose such requests. Defendant shall pay the Court-approved attorneys' fees and expenses to an account established by Settlement Class Counsel within thirty (30) days after the Effective Date. Settlement Class Counsel will ensure payment instructions are provided through secure processes. The attorneys' fees and Litigation Costs and Expenses will be allocated by Settlement Class Counsel. Defendant's obligations with respect to the Court-approved attorneys' fees and Litigation Costs and Expenses shall be fully satisfied upon transmission of the funds into the account established by Settlement Class Counsel. Defendant shall have no responsibility for, interest in, or liability whatsoever with respect to any distribution or allocation of attorneys' fees or Litigation Costs and Expenses. Nor shall Defendant be responsible for any tax obligations or payments associated with the amount paid into the account established by Settlement Class Counsel. To the extent the Effective Date does not occur, Defendant shall have no obligation to pay any attorneys' fees or Litigation Costs and Expenses. The amount of attorneys' fees and Litigation Costs and Expenses was negotiated after the primary terms of the Settlement were negotiated.

72. **No Effect on Agreement.** The finality or effectiveness of the Parties' Settlement shall not depend on the amount or timing of attorneys' fees and Litigation Costs and Expenses approved and awarded by the Court or any appeal thereof. The amount and timing of attorneys' fees and Litigation Costs and Expenses are intended to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement. No decision by the Court, or modification or reversal or appeal of any decision by the Court, concerning the amount or timing of attorneys' fees or Litigation Costs and Expenses shall constitute grounds for termination of this Agreement.

## **XII. NO ADMISSION OF LIABILITY**

73. **No Admission of Liability.** The Parties understand and acknowledge that this Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties either previously or in connection with the negotiations or proceedings connected with this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made or that could have been made, or an acknowledgment or admission by any party of any fault, liability, or wrongdoing of any kind whatsoever.

74. **No Use of Agreement.** Neither the Settlement Agreement, nor any act performed or document executed pursuant to or in furtherance of the Settlement: (i) is or may be deemed to be, or may be used as, an admission of, or evidence of, the validity of any claim made by Plaintiff or any Settlement Class Member, including any Settlement Class Member who opts out of the Settlement; or (ii) is or may be deemed to be, or may be used as, an admission of, or evidence of, any fault or omission by the Released Parties in the Action, or any Settlement Class Member who opts out of the Settlement, or in any proceeding in any court, administrative agency or other tribunal.

## **XIII. MISCELLANEOUS**

75. **Integration of Exhibits.** The exhibits to this Agreement and any exhibits thereto are a material part of the Settlement and are incorporated and made a part of the Agreement.

76. **Entire Agreement.** This Agreement, including all exhibits hereto, shall constitute the entire Agreement among the Parties with regard to the subject matter hereof and shall supersede any previous agreements, representations, communications and understandings among the Parties, including counsel for the Parties. This Agreement may not be changed, modified, or amended except in writing signed by all Parties or their successors in interest. The Parties contemplate that, subject to Court approval or without such approval where legally permissible and consistent with any orders of the Court in this proceeding, the exhibits to this Agreement may be modified by subsequent Agreement of counsel for the Parties prior to dissemination of the Notice to the Settlement Class.

77. **Resolution.** The Parties intend this Agreement to be a final and complete resolution of all disputes between them with respect to the Action. The Parties each agree that the Settlement and this Agreement were negotiated in good faith and at arm's-length and reflects a Settlement reached voluntarily after consultation with legal counsel of their choice.

78. **Other Litigation.** Plaintiff and Settlement Class Counsel will not cooperate with or encourage any action or filing of claims against Defendant or any Released Parties related to any of the allegations or claims alleged in the Action.

79. **Deadlines.** If any of the dates or deadlines specified herein falls on a weekend or legal holiday, the applicable date or deadline shall fall on the next business day. All reference to "days" in this agreement shall refer to calendar days unless otherwise specified.

80. **Singular and Plurals.** As used in this Agreement, all references to the plural shall also mean the singular and to the singular shall also mean the plural whenever the context so indicates and reasonably dictates.

81. **Headings.** The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

82. **Construction.** For the purpose of construing or interpreting this Agreement, this Agreement is to be deemed to have been drafted equally by all Parties and shall not be construed strictly for or against any Party.

83. **Cooperation of Parties.** The Parties to this Agreement agree to cooperate in good faith to prepare and execute all documents, to seek Court approval, defendant Court approval, and to do all things reasonably necessary to complete and effectuate the Settlement described in this Agreement.

84. **Obligation to Meet and Confer.** Before filing any motion in the Court raising a dispute arising out of or related to this Agreement between the Parties, the Parties shall consult with each other and certify to the Court that they have consulted in good faith.

85. **No Conflict Intended.** Any inconsistency between the headings used in this Agreement and the text of the paragraphs of this Agreement shall be resolved in favor of the text.

86. **Governing Law.** The Agreement shall be construed in accordance with, and be governed by, the laws of the State of New York, without regard to choice of law principles.

87. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all signatories do not sign the same counterparts. Original signatures are not required. Any signature submitted electronically, by facsimile, or through e-mail of an Adobe PDF shall be deemed an original.

88. **Notices.** All notices to Settlement Class Counsel and counsel for Defendant provided for herein, shall be sent by email to:

Cassandra P. Miller  
**STRAUSS BORRELLI PLLC**  
980 N Michigan Ave, Suite 1610  
Chicago, IL 60611  
cmiller@straussborrelli.com

All notices to Defendant provided for herein, shall be sent by email to:

Christopher G. Dean  
**MCDONALD HOPKINS LLC**  
600 Superior Ave, Suite 2100  
Cleveland, Ohio 44114  
cdean@mcdonaldhopkins.com

The notice recipients and addresses designated above may be changed by written notice to the other Party.

89. **Authority.** Any person executing this Agreement in a representative capacity represents and warrants that he or she is fully authorized to do so and authorized to bind the Party on whose behalf he, she or they signs this Agreement to all of the terms and provisions of this Agreement.

**SIGNATURES**

**Jeanette Coniglio**

By: J Coniglio

Date: 11 / 06 / 2024

**CareNet Medical Group, PC**

By: \_\_\_\_\_

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

**Approved as to form by:**

*Counsel for Plaintiff and the Settlement Class*

By: Cassandra Miller  
Cassandra P. Miller

Date: November 8, 2024

By: James Bilsborrow  
James Bilsborrow

Date: 11 / 08 / 2024

*Counsel for Defendant*

By: \_\_\_\_\_  
Sydney K. Bell

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

**SIGNATURES**

**Jeanette Coniglio**

By: \_\_\_\_\_

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

**CareNet Medical Group, PC**

By: 

Date: 11/7/24

**Approved as to form by:**

*Counsel for Plaintiff and the Settlement Class*

By: \_\_\_\_\_  
Cassandra P. Miller

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

By: \_\_\_\_\_  
James Bilsborrow

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

*Counsel for Defendant*

By:   
Sydney K. Bell

Date: 11/7/2024

# **EXHIBIT 1**

**A proposed Settlement has been reached in a class action lawsuit known as *Jeanette Coniglio v. CareNet Medical Group P.C.*, Index No. 2024-1351, in the Supreme Court of the State of New York, County of Schenectady (“Lawsuit”).**

**What is this about?** A proposed Settlement has been reached in a class action lawsuit against CareNet. The Lawsuit alleges that in May 2022, CareNet Medical Group, P.C. (“CareNet”) experienced an attack by cybercriminals (the “Data Security Incident”). It asserted claims against CareNet arising out of or related to the Data Security Incident. The potentially affected information included some or all of the following: names, addresses, driver’s license numbers, bank account numbers, dates of birth, medical reference numbers, Medicare numbers, phone numbers, health insurance information, email addresses, and Social Security Numbers. CareNet maintains that it had meritorious defenses, and it was prepared to vigorously defend the Lawsuit. The settlement is not an admission of wrongdoing or an indication that CareNet has violated any laws, but rather the resolution of disputed claims.

**Who is a Settlement Class Member?** The Settlement Class includes all individuals residing in the United States whose Personal Information was compromised by the Data Security Incident, including all those who received a notice of the breach. You are receiving this Notice because CareNet identified you as being among those individuals impacted by the Data Security Incident.

**What are the benefits?** The Settlement provides the following benefits to Settlement Class Members who do not exclude themselves from the settlement:

- **Documented Ordinary Loss Expense Reimbursement:** Up to \$500 per Settlement Class Member for documented out-of-pocket expenses and fees incurred as a result of the Data Security Incident.
- **Lost Time Reimbursement:** Reimbursement for up to four (4) hours of lost time spent dealing with the Data Security Incident (\$25 per hour). Claims for Lost Time are subject to the \$500.00 cap for Ordinary Losses.
- **Documented Extraordinary Loss Reimbursement:** Up to \$5,000 per Settlement Class Member, for proven actual monetary losses caused by the Data Security Incident.
- **Credit Monitoring:** Three years of Credit Monitoring Services provided through CyEx with at least \$1,000,000 in identity theft insurance.
- **Alternative Cash Payment:** In the alternative to a claim for any of the above benefits (Ordinary Losses, Lost Time, Extraordinary Losses, and/or Credit Monitoring), Settlement Class Members can instead elect a cash payment of \$50.00.
- **Remedial Relief:** CareNet will also continue the security enhancement changes that it has implemented in response to the Data Security Incident and the Lawsuit to protect its patient’s PII and PHI going forward.

You must file a claim by mail postmarked by [INSERT DATE] or online at [INSERT WEBSITE] by [INSERT DATE] to receive benefits from the Settlement.

**What are my other rights?**

- **Do Nothing:** If you do nothing, you remain in the Settlement. You give up your rights to sue but you will not get any money; you must submit a claim to get money.
- **Exclude yourself:** You can get out of the Settlement and keep your right to sue about the claims in this Lawsuit, but you will not get any money from the Settlement. You must exclude yourself by [INSERT DATE].
- **Object:** You can stay in the Settlement but tell the Court why you think the Settlement should not be approved. Objections must be submitted by [INSERT DATE].

Detailed instructions on how to file a claim, get additional credit monitoring, exclude yourself, or object are on the Settlement Website at [INSERT DATE]. The Court will hold the Final Approval Hearing on [INSERT DATE] at [INSERT TIME AND LOCATION] to consider whether the proposed Settlement is fair, reasonable, and adequate, to consider an award of attorneys' fees up to \$180,000 and expenses up to \$5,000 and a Class Representative's service award of \$2,500, and to consider whether and if the Settlement should be finally approved. You may attend the hearing, but you don't have to. This is only a summary. For additional information, including a copy of the Settlement Agreement, Long Form Notice, Claim Form, Class Counsel's Application for Attorneys' Fees and Expenses, and other documents, visit [INSERT WEBSITE] or call 1-###-###-####.



## **EXHIBIT 2**

**NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT**

**If CareNet Medical Group, P.C. (“CareNet”) Notified You Of A Data Security Incident,  
You May Be Eligible For Benefits From A Class Action Settlement.**

*This is not a solicitation from a lawyer, junk mail, or an advertisement. A court authorized this Notice.*

This notice summarizes the proposed settlement reached in a lawsuit entitled *Jeanette Coniglio v. CareNet Medical Group P.C.*, Index No. 2024-1351, in the Supreme Court of the State of New York, County of Schenectady (“Lawsuit”). For the precise terms and conditions of the settlement, please see the Settlement Agreement available at [www.\[INSERT WEBSITE\].com](http://www.[INSERT WEBSITE].com) or by contacting the Settlement Administrator at 1-###-###-####.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK’S OFFICE TO  
INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.

**This Notice explains the nature of the Lawsuit and claims being settled, your legal rights,  
and the benefits to the Settlement Class.**

**This notice may affect your rights – please read it carefully.**

- A proposed Settlement has been reached in a class action lawsuit against CareNet. The Lawsuit alleges that between about May 9, 2022, to June 4, 2022, CareNet Medical Group, P.C. (“CareNet”) experienced an attack by cybercriminals (the “Data Security Incident”). The Lawsuit asserted claims against CareNet arising out of or related to the Data Security Incident. . The potentially affected information included: names, addresses, driver’s license numbers, bank account numbers, dates of birth, medical reference numbers, Medicare numbers, phone numbers, health insurance information, email addresses, and Social Security Numbers. CareNet maintains that it had meritorious defenses, and it was prepared to vigorously defend the Lawsuit. The settlement is not an admission of wrongdoing or an indication that CareNet has violated any laws, but rather the resolution of disputed claims.
- The Settlement Class includes all individuals residing in the United States whose Personal Information was compromised by the Data Security Incident, including all those who received a notice of the breach..
- All Settlement Class Members who submit a valid and timely claim form can receive the following benefits from the Settlement: (1) reimbursement of up to \$500 for (i) documented out-of-pocket expenses such as fees for credit reports, credit monitoring, or other identity theft insurance products, and/or (ii) lost time spent dealing with the Data Security Incident up to four (4) hours of (at a rate of \$25 per hour), (2) reimbursement for documented extraordinary losses, not to exceed \$5,000 per Settlement Class Member, for proven actual monetary losses, and (3) Settlement Class Members can elect to enroll in three years of Credit Monitoring provided through CyEx with at least \$1,000,000 in identity theft insurance. In the alternative to a claim for Ordinary Losses, Lost Time, Extraordinary Losses, and/or Credit Monitoring, Settlement Class Members can elect to instead receive an Alternative Cash Payment in the amount of \$50.00.

**The deadline to submit a claim is [INSERT DATE].**

YOUR LEGAL RIGHTS & OPTIONS IN THIS SETTLEMENT	
<b>Submit a Claim</b>	<b>You must submit a valid Claim to get money from this Settlement.</b> Claim Forms must be submitted online by [INSERT DATE], 2024 or, if mailed, postmarked no later than [INSERT DATE], 2024.
<b>Do Nothing</b>	If you do nothing, you remain in the Settlement. You give up your rights to sue and you will not get any money or credit monitoring.
<b>Exclude Yourself</b>	<b>Get out of the Settlement. Get no money. Keep your rights.</b> This is the only option that allows you to keep your right to sue about the claims in this Lawsuit. You will not get any money or credit monitoring from the Settlement. Your request to exclude yourself must be postmarked no later than [INSERT DATE], 2024.
<b>File an Objection</b>	Stay in the Settlement, but tell the Court why you think the Settlement should not be approved. Objections must be postmarked no later than [INSERT DATE], 2024.
<b>Go to a Hearing</b>	You can ask to speak in Court about the fairness of the Settlement, at your own expense. See Question 18 for more details. The Final Approval Hearing is scheduled for [INSERT DATE], 2024 at [INSERT TIME AND LOCATION].

## WHAT THIS NOTICE CONTAINS

### **Basic Information..... Pages 4-5**

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2. What is this case about?
3. Why is there a Settlement?
4. Why is this a class action?
5. How do I know if I am included in the Settlement?

### **The Settlement Benefits..... Pages 5-6**

6. What does this Settlement provide?
7. How to submit a Claim?
8. What am I giving up as part of the Settlement?
9. Will the Class Representative receive compensation?

### **Exclude Yourself..... Page 7-8**

10. How do I exclude myself from the Settlement?
11. If I do not exclude myself, can I sue later?

12. What happens if I do nothing at all?	
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17. When and where will the Court decide whether to approve the Settlement?	
18. Do I have to come to the hearing?	
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## BASIC INFORMATION

### 1. How do I know if I am affected by the Lawsuit and Settlement?

You are a Settlement Class Member if the Claims Administrator identified you as U.S. resident whose Personal Information was compromised in the Data Breach experienced by CareNet in or around May 2022 to June 2022, including all those who received notice of the breach, and you are not among those excluded from the settlement (as detailed in the below paragraph).

The Settlement Class specifically excludes: (i) CareNet; (ii) the Related Entities; (iii) all Settlement Class Members who timely and validly request exclusion from the Settlement Class; (iv) any judges assigned to this case and their staff and family; and (v) 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 associated with the Data Security Incident or who pleads *nolo contendere* to any such charge.

This Notice explains the nature of the Lawsuit and claims being settled, your legal rights, and the benefits to the Settlement Class.

### 2. What is this case about?

This case is known as *Jeanette Coniglio v. CareNet Medical Group P.C.*, Index No. 2024-1351, pending in the Supreme Court of the State of New York, County of Schenectady. The person suing in this Lawsuit is called the “Plaintiff” and the company being sued, CareNet, is known as the “Defendant.” CareNet will be called “Defendant” in this Notice.

Plaintiff filed a lawsuit against Defendant, individually, and on behalf of anyone whose personally identifiable information (“PII”) or protected health information (“PHI”) was potentially impacted as a result of the Data Security Incident.

This Lawsuit claims that CareNet was responsible for failing to prevent the Data Security Incident and asserts claims including: negligence, breach of implied contract, unjust enrichment, violation of New York’s consumer protection statute, and declaratory judgment. The Lawsuit seeks, among other things, payment for persons who were injured by the Data Security Incident.

Defendant denies any wrongdoing.

### 3. Why is there a Settlement?

By agreeing to settle, both sides avoid the cost, disruption, and distraction of further litigation. The Plaintiff, Defendant, and their attorneys believe the proposed Settlement is fair, reasonable, and adequate and, thus, in the best interests for Settlement Class Members. The Court did enter any final decisions in favor of the Plaintiff or Defendant. Full details about the proposed Settlement are found in the Settlement Agreement available at [www.\[INSERT\].com](http://www.[INSERT].com).

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

In a class action, one or more people called a “Class Representative” sue on behalf of all people who have similar claims. All of these people together are the “Settlement Class” or “Settlement Class Members.” Here, Plaintiff sued on behalf of the Settlement Class and is seeking to be the Class Representative.

## 5. How do I know if I am included in the Settlement?

If you received this Notice, you have been identified by the Claims Administrator as a Settlement Class Member included in the Settlement. You are included in the Settlement because you have been identified as someone impacted by the Data Security Incident and/or were previously sent a notice of the Data Security Incident. If you are not sure whether you are included as a Settlement Class Member, or have any other questions about the Settlement, visit [www.\[INSERT\].com](http://www.[INSERT].com), call toll-free at 1-####-####-####, or write to RG/2 Claims Administration at [INSERT ADDRESS].

## THE SETTLEMENT BENEFITS

## 6. What does this Settlement provide?

The proposed Settlement will provide the following benefits to Settlement Class Members that submit a valid and timely claim form:

### Expense Reimbursement

**Documented Ordinary Loss Expense Reimbursement:** All Settlement Class Members who submit a valid and timely claim using the Claim Form attached below are eligible for reimbursement up to \$500 per Settlement Class Member for documented ordinary loss expenses (inclusive of Lost Time, as defined below) if: (a) the documented out-of-pocket expenses were incurred as a result of the Data Security Incident (b) the expense was incurred after the date of the Data Security Incident (May 9, 2022) and (c) the expense is not already covered by one of the other benefits described in this Notice. Examples of out-of-pocket expenses covered by the Settlement are (but not limited to): bank fees, long distance phone charges, cell phone charges (only if charged by the minute), data charges (only if charged based on the amount of data used), postage, gasoline for local travel; and fees for credit reports, credit monitoring, or other identity theft insurance products. To receive reimbursement for any of the above-referenced documented ordinary loss expenses, Settlement Class Members must submit to the Settlement Administrator a valid and timely Claim Form, including necessary supporting documentation.

**Lost Time Reimbursement:** Settlement Class Members are also eligible to receive reimbursement for up to four (4) hours of lost time spent dealing with the Data Security Incident (calculated at the rate of \$25 per hour). In order for Settlement Class Members to receive reimbursement for lost time they must attest on the attached Claim Form that the activities were related to the Data Security Incident. Claims made for lost time can be combined with reimbursement for documented ordinary loss expense reimbursement and are subject to the same \$500 cap for all Settlement Class Members.

**Documented Extraordinary Loss Reimbursement:** Settlement Class Members may also be eligible for reimbursement of documented extraordinary losses, up to \$5,000 per Settlement Class Member, for proven actual monetary losses. To qualify, the loss must meet the following criteria: (i) It must be an actual, documented, and unreimbursed monetary loss; (ii) it must be more likely than not caused by the Data Security Incident; (iii) it must have been incurred after May 9, 2022

(the date of the Data Security Incident); (iv) it must not be covered by any other reimbursement categories described in this Notice; and (v) the Settlement Class Member must have made reasonable efforts to avoid or seek reimbursement for the loss, including exhausting available credit monitoring and/or identity theft insurance. The maximum reimbursement for documented extraordinary losses for any one Settlement Class is \$5,000.

**Credit Monitoring:** Settlement Class Members may also elect to enroll in three years of Credit Monitoring Services provided through CyEx, which includes at least \$1,000,000 in identity theft insurance.

**Alternative Cash Payment:** In the alternative to a claim for any of the above (Ordinary Losses and Lost Time, Extraordinary Losses, and/or Credit Monitoring), Settlement Class Members can elect an Alternative Cash Payment of \$50.00.

**Remedial Relief:** Defendant has made certain security changes in response to the Data Security Incident and the Lawsuit. Defendant will continue those security changes and will pay for those changes separate and apart from other settlement benefits.

## 7. How to submit a claim?

All claims will be reviewed by the Settlement Administrator for completeness and plausibility. You must file a Claim Form to get any money or other benefit from the proposed Settlement. Claim Forms must be submitted online with your unique identifier by [INSERT DATE], 2024 or postmarked no later than [INSERT DATE], 2024. You can submit an online claim or download a Claim Form at [www.\[INSERT\].com](http://www.[INSERT].com), or you can call the Settlement Administrator toll-free at 1-###-###-#### for a Claim Form. If you lost or did not receive a unique identifier, you may call the Settlement Administrator, and upon validation of your status as a Settlement Class Member by the Settlement Administrator, have your unique identifier issued or re-issued (as the case may be). Alternatively, if you do not have a unique identifier, you may submit a Claim Form for consideration to the Settlement Administrator in paper format by mail.

## 8. What am I giving up as part of the Settlement?

If you stay in the Settlement Class, you will be eligible to receive benefits, but you will not be able to sue CareNet, or the Released Parties, which include each of its past or present parents, subsidiaries, divisions, and related or affiliated entities, and each of its respective predecessors, successors, assigns, owners, directors, shareholders, members, officers, employees, principals, agents, attorneys, insurers, and reinsurers (collectively, the “Released Parties”) regarding the Claims in this case.

The Settlement Agreement, which includes all provisions about settled claims, releases, and Released Parties, is available at [www.\[INSERT\].com](http://www.[INSERT].com).

The only way to keep the right to sue the Released Parties is to exclude yourself (*see* Question 10), otherwise you will be included in the Settlement Class, and, if the Settlement is approved, you give up the right to sue for the Claims in this case.

## 9. Will the Class Representative receive compensation?

Yes. The Class Representatives will receive a service award of up to \$2,500, to compensate her for her services and efforts in bringing the Lawsuit. The Court will make the final decision as to the amount, if any, to be paid to the Class Representative.

#### **EXCLUDE YOURSELF**

##### **10. How do I exclude myself from the Settlement?**

If you do not want to be included in the Settlement, you must send a timely written request for exclusion, stating your full name, address, and telephone number. Your request for exclusion must: (a) state the name of this Lawsuit, (b) your full name and address; (c) contain your personal signature, or the signature of a person previously authorized by law to sign on your behalf, such as a trustee, guardian, or person acting under a power of attorney; and (d) the words “Request for Exclusion” or a comparable statement that you do not wish to participate in the Settlement at the top of the communication.

Your written request for exclusion must be postmarked no later than **[INSERT DATE], 2024** to:

[INSERT ADDRESS]

Instructions on how to submit a request for exclusion are also available at [www.\[INSERT\].com](http://www.[INSERT].com) or from the Claims Administrator by calling 1-###-###-####.

If you exclude yourself, you will not be able to receive any cash benefit or credit monitoring from the Settlement, and you cannot object to the Settlement at the Final Approval Hearing. You will not be legally bound by anything that happens in the Lawsuit, and you will keep your right to sue Defendant and the other Released Parties on your own for the claims that this Settlement resolves.

##### **11. If I do not exclude myself, can I sue later?**

No. If you do not exclude yourself from the Settlement, and the Settlement is approved by the Court, you forever give up the right to sue Defendant and the other Released Parties listed in Question 8) for the claims this Settlement resolves.

##### **12. What happens if I do nothing at all?**

If you do nothing, you will be bound by the Settlement if the Court approves it. You will not get any money or credit monitoring services from the Settlement, you will not be able to start or proceed with your own lawsuit, or be part of any other lawsuit against Defendant or the other Released Parties (listed in Question 8) about the settled Claims in this case at any time.

#### **THE LAWYERS REPRESENTING YOU**

##### **13. Do I have a lawyer in the case?**

Yes. The Court has appointed STRAUSS BORRELLI PLLC (called “Settlement Class Counsel”) to represent the interests of all Settlement Class Members in this case. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.



#### **14. How will the lawyers be paid?**

Settlement Class Counsel will apply to the Court for an award of attorneys' fees not to exceed \$180,000 and expenses not to exceed \$5,000. A copy of Class Counsel's Motion for Attorneys' Fees, Costs, Expenses, and Service Award for the Class Representative will be posted on the Settlement Website, [www.\[INSERT\].com](http://www.[INSERT].com), before the Final Approval Hearing. The Court will make the final decisions as to the amounts to be paid to Settlement Class Counsel, and may award less than the amount requested by Settlement Class Counsel.

### **OBJECTING TO THE SETTLEMENT**

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

If you want to tell the Court that you do not agree with the proposed Settlement or some part of it, you must file an objection with the Court telling it why you do not think the Settlement should be approved.

Objections must be submitted in writing and include all the following information:

- a) The name of this Lawsuit;
- b) Your full name, current mailing address, and telephone number;
- c) A detailed statement describing the grounds or basis for your objection, as well as any documents that support your objection;
- d) A statement as to whether your objection applies only to you, to a specific subset of the Settlement Class, or to the entire Settlement Class;
- e) The identity of any attorneys representing you;
- f) A statement regarding whether your or your attorney will appear at the Final Approval Hearing;
- g) A list of all other lawsuits (if any) in which your attorney has submitted an objection to a class action settlement; and,
- h) your signature or your attorney's signature.

Your Objection must be postmarked no later than **[INSERT DATE], 2024** at:

[INSERT ADDRESS]

In addition, you must also email or mail a copy of your objection to the Settlement Administrator, postmarked no later than **[INSERT DATE], 2024**, to:

[INSERT ADDRESSES]

If you do not submit your objection with all the above requirements, or if your objection is not received by **[INSERT DATE], 2024** you will be considered to have waived all Objections and will not be entitled to speak at the Final Approval Hearing.

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

Objecting is simply telling the Court that you don't like something about the Settlement. You can only object to the Settlement if you stay in the Settlement Class. Excluding yourself is telling the Court that you don't want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the Settlement no longer affects you.

**THE FINAL APPROVAL HEARING**

**17. When and where will the Court decide whether to approve the Settlement?**

The Court will hold the Final Approval Hearing on [INSERT DATE, TIME, LOCATION]. The hearing may be moved to a different date, time, or location without additional notice, so it is recommended that you periodically check [www.\[INSERT\].com](http://www.[INSERT].com) for updated information.

At the hearing, the Court will consider whether the proposed Settlement is fair, reasonable, adequate, and is in the best interests of Settlement Class Members, and if it should be finally approved. If there are valid objections, the Court will consider them and will listen to people who have asked to speak at the hearing if the request was made properly. The Court will also consider the award of attorneys' fees, costs, and expenses to Settlement Class Counsel and the request for a Service Award to the Class Representative.

**18. Do I have to come to the hearing?**

No. You are not required to come to the Final Approval Hearing. However, you are welcome to attend the hearing at your own expense.

If you submit an objection, you do not have to come to the hearing to talk about it. If your objection was submitted properly and on time, the Court will consider it. You also may pay your own lawyer to attend the Final Approval Hearing, but that is not necessary. However, you must follow the requirements for making objections in Question 15, including the requirements for making appearances at the hearing.

**19. May I speak at the hearing?**

Yes. You can speak at the Final Approval Hearing, but you must ask the Court for permission. You cannot speak at the hearing if you exclude yourself from the Settlement.

**GET MORE INFORMATION**

**20. How do I get more information about the Settlement?**

This is only a summary of the proposed Settlement. If you want additional information about this Lawsuit, including a copy of the Settlement Agreement, the Complaint, the Court's Preliminary Approval Order, Settlement Class Counsel's Motion for Attorneys' Fees, Costs, Expenses, and Service Award for Class Representative, and more, please visit [www.\[INSERT\].com](http://www.[INSERT].com) or call 1-###-###-####. You may also contact the Settlement Administrator at [INSERT ADDRESS].

*[Ex. 2 – LONG NOTICE]*

**PLEASE DO NOT ADDRESS ANY QUESTIONS ABOUT THE SETTLEMENT  
OR LITIGATION TO THE CLERK OF THE COURT, THE JUDGE, DEFENDANT, OR  
DEFENDANT'S COUNSEL.**

## **EXHIBIT 3**

**Your claim must be  
submitted online or  
postmarked by:  
[INSERT DATE]**

*Jeanette Coniglio et al. v. CareNet Medical Group, P.C.*  
In the Superior Court of Schenectady County, New York

## CLAIM FORM

### GENERAL INSTRUCTIONS

Complete this Claim Form if you are a Settlement Class Member and you wish to receive Settlement benefits.

You are a member of the Settlement Class and eligible to submit a Claim Form if:

You are an individual residing in the United States whose Personal Information was compromised in the Data Breach experienced by CareNet in or around May 2022 to June 2022, including all those who received notice of the breach.

Excluded from the Settlement Class are (i) CareNet, its officers and directors; (ii) all Settlement Class Members who timely and validly request exclusion from the Settlement Class; (iii) any judges assigned to this case and their staff and family; 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 Security Incident or who pleads nolo contendere to any such charge.

You have two benefit options if you choose to remain in the class and submit a claim form. You may select either:

- (1) **Credit Monitoring and Compensation for Losses:** You may submit a claim form for (a) 3 years of Credit Monitoring Services through CyEx; (b) Unreimbursed Ordinary Loss, up to \$500 per claimant; (c) Lost Time, compensated at \$25 per hour for up to 4 hours (for a total of \$100, also subject to the \$500 cap on Ordinary Losses); (d) Extraordinary Losses, up to \$5,000 per claimant. *Note: Other than the Credit Monitoring Services, additional information or supporting documentation will be requested on your claim form for each of the Loss Compensation categories listed above. See below for further details.*

**OR**

- (2) **Alternative Cash Payment:** Instead of Option 1, you may choose a one-time cash payment of \$50. *Note: No additional information or documentation is needed, except for selecting this option on your claim form.*

**Credit Monitoring Services.** You may submit a claim for 3 years of Credit Monitoring Services, provided through CyEx, which includes monitoring and at least \$1,000,000 in identity theft insurance.

**Ordinary Losses:** You may submit a claim for up to \$500.00 in Ordinary Losses. Ordinary Losses must be supported with documentation. Examples include (without limitation): bank fees, long distance phone charges, cell phone charges (only if charged by the minute), data charges (only if charged based on the amount of data used), postage, or gasoline for local travel; and fees for credit reports, credit monitoring, or identity insurance purchased between May 9, 2022 and [INSERT DATE – CLOSE OF CLAIMS PERIOD]

**Lost Time Claims:** You may submit a claim for reimbursement for up to four (4) hours of time spent addressing the Data Breach, at \$25 per hour. You must attest on the claim form that the activities were related to the Data Breach. Lost Time claims are subject to the \$500 cap for Ordinary Losses, meaning the combined total for both Ordinary Losses and Lost Time cannot exceed \$500.

**Unreimbursed Extraordinary Losses:** You may submit a claim for up to \$5,000 in unreimbursed extraordinary losses. To qualify as an unreimbursed extraordinary loss, the loss must (i) be an actual, documented, and unreimbursed

**QUESTIONS? VISIT [WWW.\[INSERT\].COM](http://WWW.[INSERT].COM) OR CALL TOLL-FREE 1-XXX-XXX-XXXX**

**Your claim must be  
submitted online or  
postmarked by:  
[INSERT DATE]**

*Jeanette Coniglio et al. v. CareNet Medical Group, P.C.*  
In the Superior Court of Schenectady County, New York

## CLAIM FORM

monetary loss; (ii) be more likely than not caused by the Data Security Incident; (iii) have been incurred after May 9, 2022 (the date of the Data Security Incident); (iv) not be covered by any other reimbursement categories described here; and (v) you must have made reasonable efforts to avoid or seek reimbursement for the loss, including exhausting available credit monitoring and/or identity theft insurance. You must submit documents supporting any claims for extraordinary losses.

This Claim Form may be submitted electronically *via* the Settlement Website at [www.\[INSERT\].com](http://www.[INSERT].com) or completed and mailed, including any supporting documentation, to: [INSERT SETTLEMENT ADMIN ADDRESS].

### I. SETTLEMENT CLASS MEMBER NAME AND CONTACT INFORMATION

Provide your name and contact information below. You must notify the Settlement Administrator if your contact information changes after you submit this Claim Form.

**First Name**

**Last Name**

**Street Address**

**City**

**State**

**Zip Code**

**Email Address**

**Telephone Number**

**Notice ID Number, if known**

### II. UNREIMBURSED ORDINARY LOSS SELECTION

☐ Check this box if you are seeking compensation for **Unreimbursed Ordinary Losses** up to a total of \$500.

**You must submit supporting documentation demonstrating actual, unreimbursed monetary loss.**

*Complete the chart below describing the supporting documentation you are submitting.*

Description	Amount
<i>Example: Receipt for postage to credit bureaus</i>	<i>\$100</i>

**QUESTIONS? VISIT [WWW.\[INSERT\].COM](http://WWW.[INSERT].COM) OR CALL TOLL-FREE 1-XXX-XXX-XXXX**

**Your claim must be  
submitted online or  
postmarked by:  
[INSERT DATE]**

*Jeanette Coniglio et al. v. CareNet Medical Group, P.C.*  
In the Superior Court of Schenectady County, New York

## CLAIM FORM

<b>TOTAL AMOUNT CLAIMED:</b>	

### III. LOST TIME SELECTION

- ☐ Check this box if you spent time monitoring accounts or otherwise dealing with issues related to the Data Breach. You can submit a claim for reimbursement of \$25 per hour up to 4 hours (for a total of \$100, subject to the \$500.00 cap for Unreimbursed Ordinary Losses).

By checking the box above, you are attesting the activities you performed were related to the Data Breach.

Indicate the number of hours spent: ☐ 1 Hour ☐ 2 Hours ☐ 3 Hours or ☐ 4 Hours

### IV. UNREIMBURSED EXTRAORDINARY LOSSES

- ☐ Check this box if you are requesting compensation for **Extraordinary Losses** up to a total of \$5,000.

**\*You must submit supporting documentation demonstrating actual, unreimbursed monetary loss.**

*Complete the chart below describing the supporting documentation you are submitting.*

<i>Description of Documentation Provided</i>	<i>Amount</i>
<i>Example: Receipt for credit repair services</i>	<i>\$100</i>
<b>TOTAL AMOUNT CLAIMED:</b>	

### V. CREDIT MONITORING SERVICES

- ☐ Check this box if you wish to enroll in 3 years of Credit Monitoring Services provided by CyEx, which includes \$1,000,000 in identity theft insurance.

**QUESTIONS? VISIT [WWW.\[INSERT\].COM](http://WWW.[INSERT].COM) OR CALL TOLL-FREE 1-XXX-XXX-XXXX**

**Your claim must be  
submitted online or  
postmarked by:  
[INSERT DATE]**

*Jeanette Coniglio et al. v. CareNet Medical Group, P.C.*  
In the Superior Court of Schenectady County, New York

## CLAIM FORM

### VI. ALTERNATIVE CASH PAYMENT

- ☐ Check this box if you are requesting a cash payment of \$50 in the alternative to claiming Ordinary Losses, Lost Time, Extraordinary Losses, or Credit Monitoring.

### VII. PAYMENT SELECTION

Please select **one** of the following payment options, which will be used should you be eligible to receive a Settlement payment:

☐ **PayPal** - Enter your PayPal email address: \_\_\_\_\_

☐ **Venmo** - Enter the mobile number associated with your Venmo account: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

☐ **Zelle** - Enter the mobile number or email address associated with your Zelle account:

Mobile Number: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ or Email Address: \_\_\_\_\_

☐ **Virtual Prepaid Card** - Enter your email address: \_\_\_\_\_

☐ **Physical Check** - Payment will be mailed to the address provided in Section I above.

### VI. ATTESTATION & SIGNATURE

I swear and affirm under penalty of perjury that the information provided in this Claim Form, and any supporting documentation provided is true and correct to the best of my knowledge. I understand that my claim is subject to verification and that I may be asked to provide supplemental information by the Settlement Administrator before my claim is considered complete and valid.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

QUESTIONS? VISIT WWW.[INSERT].COM OR CALL TOLL-FREE 1-XXX-XXX-XXXX



# **EXHIBIT 4**

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SCHENECTADY**

-----X  
**JEANETTE CONIGLIO, individually and on  
behalf of all others similarly situated,**

**Plaintiff,**

**-against-**

**Index No. 2024-1351**

**CARENET MEDICAL GROUP, P.C.**

**Defendant.**

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**[PROPOSED] ORDER GRANTING  
PLAINTIFF’S [UNOPPOSED] MOTION FOR PRELIMINARY APPROVAL**

This matter came before the Court on Plaintiff Jeanette Coniglio (“Plaintiff” or “Class Representative”) Unopposed Motion for Preliminary Approval of Class Settlement Agreement. Plaintiff Jeanette Coniglio, individually and on behalf of the proposed Settlement Class, and Defendant CareNet Medical Group, P.C. (“Defendant” or “CareNet”), have entered into a Settlement Agreement (the “Settlement Agreement”) that settles the above-captioned litigation.

Plaintiff brought this class action against CareNet asserting five causes of action: (i) negligence; (ii) breach of implied contract; (iii) unjust enrichment; (iv) violation of N.Y. Gen. Bus. Law § 349 et seq.; and (v) declaratory judgment. NYSCEF Doc. No. 1 (“Compl.”). According to the Complaint, from May 9, 2022, to June 4, 2022, CareNet experienced a cybersecurity attack that potentially exposed the personally identifiable information (“PII”) and protected health information (“PHI”) of its current and former patients (the “Data Security Incident”). Compl. ¶¶20-22. The affected information may have included: names, Social Security numbers, driver’s license numbers, financial account information, medical reference numbers, Medicare numbers, email

addresses, and health insurance information. *Id.* CareNet began notifying Plaintiff and the Settlement Class about the Data Security Incident on June 2, 2023. *Id.* ¶24.

Recognizing the benefits of early resolution, the parties began settlement discussions in early February 2024. The Parties have agreed to settle the Lawsuit, pursuant to the terms of the Settlement Agreement, and subject to the approval and determination of the Court as to the fairness, reasonableness, and adequacy of the Settlement, which, if approved, will result in dismissal of the Lawsuit with prejudice.

Having reviewed the Settlement Agreement, including the exhibits attached thereto, and all prior proceedings herein, and for good cause shown, it is hereby ordered that Plaintiff's Unopposed Motion for Preliminary Approval is **GRANTED** as set forth herein.<sup>1</sup>

1. **Class Certification for Settlement Purposes Only.** For settlement purposes only and pursuant to N.Y. C.P.L.R. Ch. 8, Art. 9, §§ 901(a)(1)-(5) and 902, the Court conditionally certifies the Settlement Class in this matter defined as follows:

All individuals residing in the United States whose Personal Information was compromised in the Data Breach experienced by CareNet in or around May 2022 to June 2022, including all those who received notice of the breach.

The Court conditionally finds, for settlement purposes only, that: (1) the Settlement Class is so numerous that joinder of all members, whether otherwise required or permitted, is impracticable; (2) there are questions of law or fact common to the Settlement Class which predominate over any questions affecting only individual class members; (3) the claims or defenses of the representative parties are typical of the claims or defenses of the Settlement Class; (4) the representative parties

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<sup>1</sup> Unless otherwise indicated, capitalized terms used in this Preliminary Approval Order Granting Unopposed Motion for Preliminary Approval of Class Action Settlement ("Preliminary Approval Order") have the same meaning as in the Settlement Agreement.

will fairly and adequately protect the interests of the Settlement Class; (5) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

2. **Class Representatives and Settlement Class Counsel.** Jeanette Coniglio is hereby provisionally designated and appointed as the Class Representative. The Court provisionally finds that the Class Representative is similarly situated to absent Settlement Class Members and therefore typical of the Class and that she will be an adequate Class Representatives.

The Court finds that the following counsel is experienced and adequate counsel and is hereby provisionally designated as Settlement Class Counsel: James Bilsborrow of Weitz & Luxenberg, PC and Cassandra P. Miller of Strauss Borrelli PLLP.

3. **Preliminary Settlement Approval.** Upon preliminary review, the Court concludes and finds that the proposed Settlement is fair, reasonable, adequate, and in the best interests of the Settlement Class to warrant providing Notice of the Settlement to the Settlement Class and accordingly, is preliminarily approved.

4. **Jurisdiction.** The Court concludes that it has subject matter jurisdiction and personal jurisdiction over the Parties before it for the purposes of the Settlement. Additionally, venue is proper in this Court.

5. **Final Approval Hearing.** A Final Approval Hearing shall be held on \_\_\_\_\_, 202\_\_ at \_\_\_\_\_ o'clock [a.m./p.m.] in the Supreme Court of the State of New York, County of Schenectady, 612 State Street, Schenectady, NY 12305, to determine, among other things, whether: (a) this matter should be finally certified as a class action for settlement purposes pursuant to N.Y. C.P.L.R. Ch. 8, Art. 9, §§ 901(a)(1)-(5); (b) the Settlement Agreement between the Parties should be finally approved; (c) the Settlement and Settlement Agreement should be finally approved as fair, reasonable, adequate, and in the best interests of the

Settlement Class pursuant to N.Y. C.P.L.R. Ch. 8, Art. 9, § 908; (d) the action should be dismissed with prejudice pursuant to the terms of the Settlement Agreement; (e) Settlement Class Members (except those who have timely and valid requests for exclusion from the Settlement) should be bound by the releases set forth in the Settlement Agreement; (f) Plaintiff's Motion for Attorneys' Fees, Costs, and Service Awards should be approved; (g) James Bilsborrow of Weitz & Luxenberg, PC and Cassandra P. Miller of Strauss Borrelli PLLP, should be appointed as Settlement Class Counsel; and (h) Jeanette Coniglio should be appointed as Class Representative.

Plaintiff's Motion for Final Approval of the Class Action Settlement shall be filed with the Court at least **fourteen (14) Days prior to the date of the Final Approval Hearing**, and Plaintiff's Motion for Attorneys' Fees, Costs, and Service Awards shall be filed with the Court at least **fourteen (14) Days prior to the deadline for Settlement Class Members to opt-out of or object to the Settlement**.

6. **Administration.** The Court appoints RG/2 Claims Administration as the Settlement Administrator, with responsibility for the Notice program and claims administration and to fulfill the duties of the Settlement Administrator set forth in the Settlement Agreement. CareNet shall pay the costs of Notice and Administrative Expenses, including, but not limited to, the Settlement Administrator's fees, as well as the costs associated with the provision of notice to the Settlement Class Members and administration of the Settlement. CareNet shall disclose the necessary names and mailing addresses to the Settlement Administrator for purposes of the Notice program and claims administration and the Settlement Administrator shall maintain any names and mailing addresses obtained from CareNet in the course of the class notification and claims administration process securely and confidentially and shall use such information solely for purposes of effecting class Notice and claims administration under the Settlement Agreement.

Other than such disclosures to Settlement Class Counsel as are expressly authorized by the Settlement Agreement, the Settlement Administrator shall not disclose any PII to any persons or entities not also bound to the confidentiality provisions of the Settlement Administrator's engagement letter with CareNet without an additional court order to do so, such disclosures, if any, to be made solely as needed to perform the obligations required under the Settlement Agreement. Such authorized disclosures to Settlement Class Counsel are approved by the Court, provided Settlement Class Counsel shall maintain such information securely and confidentially and shall use such information solely for purposes of complying with the Settlement Agreement. Once the Settlement Administrator's class distributions and settlement administrative duties are complete, the Settlement Administrator shall, upon ten (10) days' notice to all counsel of record, securely destroy all PII obtained from CareNet and all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of such information.

7. **Notice to the Class.** The proposed Notice program set forth in the Settlement Agreement, including the Short Form Notice, the Long Form Notice, and the Claim Form, which are attached to the Settlement Agreement as **Exhibits 1-3**, respectively, satisfy the requirements of N.Y. C.P.L.R. Ch. 8, Art. 9, §§ 904 and 908 and constitute reasonable notice of the commencement of the action and are hereby approved. Non-material modifications to these exhibits may be made without further order of the Court. The Settlement Administrator and CareNet are directed to perform the Notice Program in conformance with the Settlement Agreement.

Within **thirty (30) days from the date of this Order** (the "Notice Deadline"), the Settlement Administrator and CareNet shall initiate the Notice Program, which shall be completed in the manner set forth in Section 4 of the Settlement Agreement.

8. **Findings and Conclusions Concerning Notice.** The Court finds that the form, content, and method of giving notice to the Settlement Class as described in Paragraph 7 of this Preliminary Approval Order and the Settlement Agreement (including the exhibits thereto) constitutes reasonable notice of the commencement of the action to the Settlement Class pursuant to N.Y. C.P.L.R. Ch. 8, Art. 9, §§ 904 and 908. Specifically, the Notice is written in plain language, uses simple terminology, and is designed to be readily understandable by Settlement Class Members. Moreover, the Notice is clear and straightforward: it appries Settlement Class Members of the pendency of the Lawsuit; describes the essential terms of the Settlement; defines the Settlement Class; clearly describes the options available to the Settlement Class and the deadlines for taking action; explains procedures for making claims, objections, or requesting exclusion; provides information that will enable Settlement Class Members to calculate their individual recovery; discloses the Plaintiff's requested attorneys' fees, costs, and expenses, and Class Representative's requested Service Award; describes the date, time, and place of the Final Approval Hearing; and prominently displays the address and phone number of proposed Settlement Class Counsel. Dissemination via email, or, if a valid email address is not available, postcard through First Class U.S. mail, combined with publishing on the Settlement Website, is designed to be the best reasonable notice of the commence of the action to reach the Settlement Class Members under the circumstances. The claims administrator will also use targeted media publications to provide Notice to the Settlement Class Members for whom the parties do not have contact information. The Court concludes that the Notice program meets all applicable requirements of law pursuant to N.Y. C.P.L.R. Ch. 8, Art. 9, §§ 904 and 908.

9. **Exclusion from Class.** Any Settlement Class Member who wishes to be excluded from the Settlement Class must mail a written notification of the intent to exclude himself or herself

from the Settlement Class to the Settlement Administrator at the address provided in the Notice, postmarked no later than sixty (60) Days from the Notice Deadline (the “Opt-Out Deadline”). The written notification must include all of the information set forth in Paragraph 5.56 of the Settlement Agreement, as follows:

- (i) state the name of this proceeding;
- (ii) state the individual’s full name, current address;
- (iii) contain the Settlement Class Member’s personal and original signature (or the original signature of a person previously authorized by law, such as a trustee, guardian, or person acting under a power of attorney to act on behalf of the Settlement Class Member with respect to a claim or right, such as those in the Lawsuit); and
- (iv) contain the words “Request for Exclusion” or a comparable statement that the individual does not wish to participate in the Settlement at the top of the communication.

The Settlement Administrator shall provide the Parties with copies of all completed opt-out notifications, and a final list of all who have timely and validly excluded themselves from the Settlement Class, which Settlement Class Counsel may move to file under seal with the Court, no later than **seven (7) Days after the last day of the Opt-Out Deadline**.

Any Settlement Class Member who does not timely and validly exclude herself or himself from the Settlement shall be bound by the terms of the Settlement Agreement. If a Final Order and Judgment is entered, any Settlement Class Member who has not submitted a timely, valid written notice of exclusion from the Settlement Class shall be bound by all proceedings, orders, and judgments in this matter, including, but not limited to, the Release set forth in the Final Order and Judgment, including Settlement Class Members who have previously initiated or who subsequently initiate any litigation against any or all of the Released Parties relating to the claims and transactions released in the Settlement Agreement. All Settlement Class Members who submit



valid and timely notices of exclusion from the Settlement Class shall not be entitled to receive any benefits of the Settlement.

10. **Objections.** A Settlement Class Member who complies with the requirements of this Paragraph may object to the Settlement and to Plaintiff's Motion for Attorneys' Fees, Costs, and Service Award for the Class Representative.

No Settlement Class Member shall be heard, and no papers, briefs, pleadings, or other documents submitted by any Settlement Class Member shall be received and considered by the Court, unless the objection is: (a) filed with the Clerk of Court by the Objection Deadline as set forth in the Settlement Agreement, and (b) sent concurrently to the Settlement Administrator postmarked or emailed no later than the Objection Deadline set forth in the Settlement Agreement, and as specified in the Notice. For an objection to be considered by the Court, the objection must also include all of the information set forth in Paragraph 5.57 of the Settlement Agreement, which is as follows:

- (i) the name of these proceedings;
- (ii) the Settlement Class Member's full name, current mailing address, and telephone number;
- (iii) a statement that states with specificity the grounds for the objection, as well as any documents supporting the objection;
- (iv) a statement as to whether the objection applies only to the objector, to a specific subset of the Settlement Class, or to the entire Settlement Class;
- (v) the identity of any attorneys representing the objector;
- (vi) a statement regarding whether the Settlement Class Member (or his/her attorney) intends to appear at the Final Approval Hearing;
- (vii) a list of all other matters in which the objecting Settlement Class Member and/or his/her attorney has lodged an objection to a class action settlement; and,

- (viii) the signature of the Settlement Class Member or the Settlement Class Member's attorney.

Any Settlement Class Member who fails to comply with the provisions in this Paragraph may waive and forfeit any and all rights he or she may have to object, and shall be bound by all the terms of the Settlement Agreement, this Preliminary Approval Order, and by all proceedings, orders, and judgments in this matter, including, but not limited to, the Release in the Settlement Agreement, if the Final Order and Judgment is entered.

Any Settlement Class Member, including a Settlement Class Member who files and serves a written objection, as described above, may appear at the Final Approval Hearing, either in person or through counsel hired at the Settlement Class Member's expense, to object to or comment on the fairness, reasonableness, or adequacy of the Settlement, or Plaintiffs' Attorneys' Fees, Costs, Expenses, and/or Service Awards Requests for Class Representatives.

If the Final Order and Judgment is entered, any Settlement Class Member who fails to object in the manner prescribed herein shall be deemed to have waived his or her objections and shall be forever barred from making any such objections in this action or in any other proceeding or from challenging or opposing, or seeking to reverse, vacate, or modify any approval of the Settlement Agreement, and Plaintiff's Attorneys' Fees, Costs, Expenses, and/or Service Awards Requests for the Class Representative.

11. **Claims Process and Distribution and Allocation Plan.** The Class Representative and CareNet have created a process for assessing and determining the validity and value of claims and a payment methodology to Settlement Class Members who submit a timely, valid Claim Form. The Court preliminarily approves the plan for remuneration described in Section 3 of the Settlement Agreement and directs that the Settlement Administrator effectuate the distribution of

Settlement consideration according to the terms of the Settlement Agreement, should the Settlement be finally approved.

Settlement Class Members who qualify for and wish to submit a Claim Form shall do so in accordance with the requirements and procedures specified in the Notice and the Claim Form. If the Final Order and Judgment is entered, all Settlement Class Members who qualify for any benefit under the Settlement, but fail to submit a claim in accordance with the requirements and procedures specified in the Notice and the Claim Form, shall be forever barred from receiving any such benefit, but will in all other respects be subject to and bound by the provisions in the Settlement Agreement, the Release included in that Settlement Agreement, and the Final Order and Judgment.

12. **Termination of Settlement.** This Preliminary Approval Order shall become null and void and shall be without prejudice to the rights of the Parties, all of whom shall be restored to their respective positions existing as of the date of the execution of the Settlement Agreement, if the Settlement is not finally approved by the Court or is terminated in accordance with the Settlement Agreement. In such event, the Settlement and Settlement Agreement shall become null and void and be of no further force and effect, and neither the Settlement Agreement nor the Court's orders, including this Preliminary Approval Order, relating to the Settlement shall be used or referred to for any purpose whatsoever.

13. **Use of Order.** This Preliminary Approval Order shall be of no force or effect if a Final Order and Judgment is not entered or there is no Effective Date and shall not be construed or used as an admission, concession, or declaration by or against CareNet of any fault, wrongdoing, breach, liability, or the certifiability of any class. Nor shall this Preliminary Approval Order be construed or used as an admission, concession, or declaration by or against the Class

Representatives or any other Settlement Class Member that his or her claim lacks merit or that the relief requested is inappropriate, improper, unavailable, or as a waiver by any Party of any defense or claim he, she, or it may have in this Lawsuit or in any other lawsuit.

14. **Stay of Proceedings.** Except as necessary to effectuate this Preliminary Approval Order, all proceedings and deadlines in this matter are stayed and suspended pending the Final Approval Hearing and issuance of the Final Order and Judgment, or until such further order of this Court.

15. **Continuance of Hearing.** The Court reserves the right to adjourn or continue the Final Approval Hearing and related deadlines without further written notice to the Settlement Class. If the Court alters any of those dates or times, the revised dates and times shall be posted on the Settlement Website maintained by the Settlement Administrator.

16. **Summary of Deadlines.** The preliminarily approved Settlement shall be administered according to its terms pending the Final Approval Hearing. Deadlines arising under the Settlement Agreement and this Preliminary Approval Order include, but are not limited to:

EVENT	DATE
Notice Deadline	30 days after Preliminary Approval Granted
Deadline for Plaintiffs to File Motion for Attorneys' Fees, Costs, and Service Awards	14 days prior to Opt-Out and Objection Dates
Deadline for Settlement Class Members to Opt-Out of Settlement	60 days after Notice Deadline
Deadline for Settlement Class Members to Object to Settlement	60 days after Notice Deadline

Deadline for Class Members to Submit Claim Forms (Electronically or Postmarked by Mail)	90 days after Notice Deadline
Deadline for Plaintiffs to File Motion for Final Approval of Settlement	14 days before Final Approval Hearing
Final Fairness Hearing	Not less than 120 days after Preliminary Approval _____, 202__

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

\_\_\_\_\_  
Judge

**Addendum:**

The undersigned Parties agree to the [Proposed] Order Granting Unopposed Motion for Preliminary Approval of Class Action Settlement on \_\_\_\_\_, 202\_\_.

Respectfully submitted,

**STRAUSS BORRELLI PLLC**

By: /s/ Cassandra P. Miller  
Cassandra P. Miller (PRO HAC VICE)  
**STRAUSS BORRELLI PLLC**  
980 N Michigan Ave, Suite 1610  
Chicago IL, 60611  
(872) 263-1100  
cmiller@straussborrelli.com

**WEITZ & LUXENBERG**

By: /s/ James Brisborrow  
James Bilsborrow  
700 Broadway  
New York, NY 10003  
jbilsborrow@weitzlux.com  
*Counsel for Plaintiff and Proposed Settlement Class Counsel*

**MCDONALD HOPKINS, LLC**

By: /s/ Sydney K. Bell  
Sydney Bell (PRO HAC VICE)  
**MCDONALD HOPKINS, LLC**  
600 Superior Ave, Suite 2100  
Cleveland, OH 44106  
(216) 348-5807  
sbell@mcdonaldhopkins.com

**Rivkin Radler LLP**

By: /s/ John Queenan  
John Queenan  
66 S. Pearl Street, 11th Fl.  
Albany, NY 12207  
John.Queenan@rivkin.com  
*Counsel for CareNet Medical Group, P.C.*

# **EXHIBIT 5**

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SCHENECTADY**

-----X

**JEANETTE CONIGLIO, individually and on  
behalf of all others similarly situated,**

**Plaintiff,**

**-against-**

**Index No. 2024-1351**

**CARENET MEDICAL GROUP, P.C.**

**Defendant.**

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**[PROPOSED] FINAL APPROVAL ORDER**

Before the Court is Before the Court is Plaintiff Jeanette Coniglio’s Unopposed Motion for Final Approval of Class Action Settlement (“Motion for Final Approval”).<sup>1</sup> The Motion seeks approval of the Settlement as fair, reasonable, and adequate. Also before the Court is Plaintiff’s Motion for Attorneys’ Fees, Costs, and Expenses to Class Counsel, and Service Award to Plaintiff (“Motion for Attorneys’ Fees”).

Having reviewed and considered the Settlement Agreement, Motion for Final Approval, and Motion for Attorneys’ Fees, and having conducted a Final Approval Hearing, the Court makes the findings and grants the relief set forth below approving the Settlement upon the terms and conditions set forth in this Order.

**WHEREAS**, on \_\_\_\_\_[DATE], the Court entered an Order Granting Preliminary Approval of Class Action Settlement (“Preliminary Approval Order”) (**Doc. No. \_\_**) which, among other things: (a) conditionally certified this matter as a class action, including defining the class, (b) appointed Plaintiff as the Class Representatives and appointed James

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<sup>1</sup> All defined terms in this Order Granting Final Approval of Class Action Settlement (“Final Approval Order”) have the same meaning as set forth in the Settlement Agreement, unless otherwise indicated.



Bilsborrow of Weitz & Luxenberg, PC and Cassandra P. Miller of Strauss Borrelli PLLP as Class Counsel; (c) preliminarily approved the Settlement Agreement; (d) approved the form and manner of Notice to the Settlement Class; (e) set deadlines for opt-outs and objections; (f) approved and appointed the Claims Administrator; and (g) set the date for the Final Approval Hearing;

**WHEREAS**, on \_\_\_\_\_[DATE], pursuant to the Notice requirements set forth in the Settlement Agreement and in the Preliminary Approval Order, the Settlement Class was notified of the terms of the proposed Settlement Agreement, of the right of Settlement Class Members to opt-out, and the right of Settlement Class Members to object to the Settlement Agreement and to be heard at a Final Approval Hearing;

**WHEREAS**, on \_\_\_\_\_[DATE], the Court held a Final Approval Hearing to determine, *inter alia*: (1) whether the terms and conditions of the Settlement Agreement are fair, reasonable, and adequate for the release of the claims contemplated by the Settlement Agreement; and (2) whether judgment should be entered dismissing this action with prejudice. Prior to the Final Approval Hearing, a declaration of compliance with the provisions of the Settlement Agreement and Preliminary Approval Order relating to notice was filed with the Court as required by the Preliminary Approval Order. Therefore, the Court is satisfied that Settlement Class Members were properly notified of their right to appear at the Final Approval Hearing in support of or in opposition to the proposed Settlement Agreement, the award of attorneys' fees, costs, and expenses to Class Counsel, and the payment of a Service Award to the Class Representative;

**WHEREAS**, the Court not being required to conduct a trial on the merits of the case or determine with certainty the factual and legal issues in dispute when determining whether to approve a proposed class action settlement; and

**WHEREAS**, the Court being required under N.Y. C.P.L.R. Ch. 8, Art. 9, § 908 to make the findings and conclusions hereinafter set forth for the limited purpose of determining whether the settlement should be approved as being fair, reasonable, adequate and in the best interests of the Settlement Class;

Having given an opportunity to be heard to all requesting persons in accordance with the Preliminary Approval Order, having heard the presentation of Class Counsel and counsel for Defendant, having reviewed all of the submissions presented with respect to the proposed Settlement Agreement, having determined that the Settlement Agreement is fair, adequate, and reasonable, having considered the application made by Settlement Class Counsel for attorneys' fees, costs, and expenses, and the application for a Service Award to the Representative Plaintiffs, and having reviewed the materials in support thereof, and good cause appearing:

**IT IS ORDERED** that:

1. The Court has jurisdiction over the subject matter of this action and over all claims raised therein and all Parties thereto, including the Settlement Class.
2. The Settlement involves allegations in Plaintiff's Class Action Complaint against Defendant for failure to implement or maintain adequate data security measures and safeguards to protect Private Information, which Plaintiff alleges directly and proximately caused injuries to Plaintiff and Settlement Class Members.
3. The Settlement does not constitute an admission of liability by Defendant, and the Court expressly does not make any finding of liability or wrongdoing by Defendant.
4. Unless otherwise indicated, words spelled in this Order and Judgment Granting Final Approval of Class Action Settlement ("Final Order and Judgment") with initial capital letters have the same meaning as set forth in the Settlement Agreement.

5. The Court, having reviewed the terms of the Settlement Agreement submitted by the Parties, grants final approval of the Settlement Agreement and for purposes of the Settlement Agreement and this Final Order and Judgment only, the Court hereby finally certifies the following Settlement Class:

All individuals residing in the United States whose Personal Information was compromised in the Data Breach experienced by CareNet in or around May 2022 to June 2022, including all those who received notice of the breach.

Specifically excluded from the Settlement Class are:

(i) Defendant; (ii) the Related Entities; (iii) all Settlement Class Members who timely and validly request exclusion from the Settlement Class; (iv) any judges assigned to this case and their staff and family; and (v) 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 associated with the Data Security Incident or who pleads *nolo contendere* to any such charge.

6. The Settlement was entered into in good faith following arm's length negotiations and is non-collusive. The Settlement is in the best interests of the Settlement Class and is therefore approved. The Court finds that the Parties faced significant risks, expenses, delays, and uncertainties, including as to the outcome, including on appeal, of continued litigation of this complex matter, which further supports the Court's finding that the Settlement Agreement is fair, reasonable, adequate, and in the best interests of the Settlement Class Members. The Court finds that the uncertainties of continued litigation in both the trial and appellate courts, as well as the expense associated with it, weigh in favor of approval of the settlement reflected in the Settlement Agreement.

7. The Settlement Agreement provides, in part, and subject to a more detailed description of the settlement terms in the Settlement Agreement, for:

- a. Claims Administration as outlined in the Settlement Agreement whereby Settlement Class Members can submit claims that will be evaluated by a

Settlement Administrator mutually agreed upon by Settlement Class Counsel and Defendant.

- b. Defendant to pay all costs of Notice and Administrative Expenses including the cost of the Settlement Administrator, instituting Notice, processing and administering claims, and preparing and mailing checks.
- c. Defendant to pay, subject to the approval and award of the Court, the reasonable attorneys' fees, costs, and expenses of Settlement Class Counsel and a Service Award to the Class Representative.

The Court readopts and incorporates herein by reference its preliminary conclusions as to the satisfaction of N.Y. C.P.L.R. Ch. 8, Art. 9, §§ 901(a)(1)-(5), 902, 904, and 908 set forth in the Preliminary Approval Order and notes that because this certification of the Settlement Class is in connection with the Settlement Agreement rather than litigation, the Court need not address any issues of manageability that may be presented by certification of the class proposed in the Settlement Agreement.

8. The terms of the Settlement Agreement are fair, adequate, and reasonable and are hereby approved, adopted, and incorporated by the Court. Notice of the terms of the Settlement, the rights of Settlement Class Members under the Settlement, the Final Approval Hearing, Plaintiff's application for attorneys' fees, costs, and expenses, and the Service Award payment to the Class Representative have been provided to Settlement Class Members as directed by this Court's Orders, and proof of Notice has been filed with the Court.

9. The Court finds that the notice program, set forth in the Settlement Agreement and effectuated pursuant to the Preliminary Approval Order, was the best notice practicable under the circumstances, was reasonably calculated to provide and did provide due and sufficient notice to

the Settlement Class of the pendency of the Action, certification of the Settlement Class for settlement purposes only, the existence and terms of the Settlement Agreement, and their right to object and to appear at the final approval hearing or to exclude themselves from the Settlement Agreement, and satisfied the requirements of N.Y. C.P.L.R. Ch. 8, Art. 9, §§ 904 and 908, the United States Constitution, and other applicable law

10. As of the Opt-Out deadline, \_\_\_\_\_[DATE] potential Settlement Class Members have requested to be excluded from the Settlement. Their names are set forth in **Exhibit A** to this Final Order and Judgment. Those persons are not bound by the Settlement Agreement and this Final Order and Judgment and shall not be entitled to any of the benefits afforded to the Settlement Class Members under the Settlement Agreement, as set forth in the Settlement Agreement.

11. \_\_\_\_\_[NUMBER] objections were filed by Settlement Class Members. The Court has considered all objections and finds the objections do not counsel against Settlement Agreement approval, and the objections are hereby overruled in all respects.

12. All Settlement Class Members who have not objected to the Settlement Agreement in the manner provided in the Settlement Agreement are deemed to have waived any objections by appeal, collateral attack, or otherwise.

13. The Court has considered all the documents filed in support of the Settlement, and has fully considered all matters raised, all exhibits and affidavits filed, all evidence received at the Final Approval Hearing, all other papers and documents comprising the record herein, and all oral arguments presented to the Court.

14. The Parties, their respective attorneys, and the Claims Administrator are hereby directed to consummate the Settlement in accordance with this Final Order and Judgment and the terms of the Settlement Agreement.

15. Pursuant to the Settlement Agreement, Defendant, the Settlement Administrator, and Settlement Class Counsel shall implement the Settlement in the manner and timeframe as set forth therein.

16. Within the time period set forth in the Settlement Agreement, the relief provided for in the Settlement Agreement shall be made available to the various Settlement Class Members submitting valid Claim Forms, pursuant to the terms and conditions of the Settlement Agreement.

17. Pursuant to and as further described in the Settlement Agreement, Plaintiff and the Participating Settlement Class Members release claims as follows:

Upon the Effective Date, and in consideration of the Settlement benefits described herein, each Releasing Party shall be deemed to have completely and unconditionally released, acquitted, and forever discharged Defendant and each of the Released Parties from any and all Released Claims, including Unknown Claims.

18. The Court grants final approval to the appointment of Plaintiff as Class Representative. The Court concludes that Class Representatives has fairly and adequately represented the Settlement Class and will continue to do so.

19. Pursuant to the Settlement Agreement, and in recognition of her efforts on behalf of the Settlement Class, the Court approves a payment to the Class Representative in the amount of \$2,500 as a Service Award. Defendant shall make such payment in accordance with the terms of the Settlement Agreement.

20. The Court grants final approval to the appointment of James Bilsborrow of Weitz & Luxenberg, PC and Cassandra P. Miller of Strauss Borrelli PLLP as Class Counsel. The Court concludes that Class Counsel has adequately represented the Settlement Class and will continue to do so.

21. The Court, after careful review of the fee petition filed by Class Counsel, and after applying the appropriate standards required by relevant case law, hereby grants Class Counsel's

application for attorneys' fees in the amount of \$180,000, and expenses and costs in the amount of \$ [INSERT]. Payment shall be made pursuant to the terms of the Settlement Agreement.

22. This Final Order and Judgment and the Settlement Agreement, and all acts, statements, documents, or proceedings relating to the Settlement Agreement are not, and shall not be construed as, used as, or deemed to be evidence of, an admission by or against Defendant of any claim, any fact alleged in the Litigation, any fault, any wrongdoing, any violation of law, or any liability of any kind on the part of Defendant's or of the validity or certifiability for litigation of any claims that have been, or could have been, asserted in the lawsuit. This Final Order and Judgment, the Settlement Agreement, and all acts, statements, documents, or proceedings relating to the Settlement Agreement shall not be offered or received or be admissible in evidence in any action or proceeding, or be used in any way as an admission or concession or evidence of any liability or wrongdoing of any nature or that Plaintiff, any Settlement Class Member, or any other person has suffered any damage; provided, however, that the Settlement Agreement and this Final Order and Judgment may be filed in any action by Defendant, Settlement Class Counsel, or Settlement Class Members seeking to enforce the Settlement Agreement or the Final Order and Judgment (including, but not limited to, enforcing the releases contained herein). The Settlement Agreement and Final Order and Judgment shall not be construed or admissible as an admission by Defendant that Plaintiff's claims, or any similar claims are suitable for class treatment. The Settlement Agreement's terms shall be forever binding on, and shall have *res judicata* and preclusive effect in, all pending and future lawsuits or other proceedings as to Released Claims and other prohibitions set forth in this Final Order and Judgment that are maintained by, or on behalf of, any Settlement Class Member or any other person subject to the provisions of this Final Order and Judgment.

23. If the Effective Date, as defined in the Settlement Agreement, does not occur for any reason, this Final Order and Judgment and the Preliminary Approval Order shall be deemed vacated, and shall have no force and effect whatsoever; the Settlement Agreement shall be considered null and void; all of the Parties' obligations under the Settlement Agreement, the Preliminary Approval Order, and this Final Order and Judgment and the terms and provisions of the Settlement Agreement shall have no further force and effect with respect to the Parties and shall not be used in the 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*, and the Parties shall be restored to their respective positions in the Litigation, as if the Parties never entered into the Settlement Agreement (without prejudice to any of the Parties' respective positions on the issue of class certification or any other issue). In such event, the Parties will jointly request that all scheduled Litigation deadlines be reasonably extended by the Court so as to avoid prejudice to any Party or Party's counsel. Further, in such event, Defendant will pay amounts already billed or incurred for costs of Notice and Administrative Expenses, and will not, at any time, seek recovery of same from any other Party to the Litigation or from counsel to any other Party to the Litigation.

24. This Court shall retain the authority to issue any order necessary to protect its jurisdiction from any action, whether in state or federal court.

25. Without affecting the finality of this Final Order and Judgment, the Court will retain jurisdiction over the subject matter and the Parties with respect to the interpretation and implementation of the Settlement Agreement for all purposes.

26. This Order resolves all claims against all Parties in this action and is a final order.



27. The matter is hereby dismissed with prejudice and without costs except as provided in the Settlement Agreement.

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

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Judge

**Addendum:**

The undersigned Parties agree to the [Proposed] Order Granting Unopposed Motion for Final Approval of Class Action Settlement on \_\_\_\_\_, 202\_\_.

Respectfully submitted,

**STRAUSS BORRELLI PLLC**

By: /s/\_\_\_\_\_

Cassandra P. Miller (PRO HAC VICE)  
**STRAUSS BORRELLI PLLC**  
980 N Michigan Ave, Suite 1610  
Chicago IL, 60611  
(872) 263-1100  
cmiller@straussborrelli.com

**WEITZ & LUXENBERG**

By: /s/\_\_\_\_\_

James Bilsborrow  
700 Broadway  
New York, NY 10003  
jbilsborrow@weitzlux.com  
*Counsel for Plaintiff and Proposed Settlement Class Counsel*

**MCDONALD HOPKINS, LLC**

By: /s/\_\_\_\_\_

Sydney Bell (PRO HAC VICE)  
**MCDONALD HOPKINS, LLC**  
600 Superior Ave, Suite 2100  
Cleveland, OH 44106  
(216) 348-5807  
sbell@mcdonaldhopkins.com

**Rivkin Radler LLP**

By: /s/\_\_\_\_\_

John Queenan  
66 S. Pearl Street, 11th Fl.  
Albany, NY 12207  
John.Queenan@rivkin.com  
*Counsel for CareNet Medical Group, P.C.*