

Affidavit and Declaration of Martin A. Ramey in Support  
of Final Approval of Class Action Settlement and  
Certification of Settlement Class

Exhibit B to Plaintiffs' Unopposed Motion for Final Approval of Class  
Action Settlement Agreement and Entry of Final Judgment

**IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE  
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY**

WILLIAM BOYKIN AND SALLY )  
ROBBINS, on behalf of themselves and )  
all others similarly situated, )

Plaintiffs, )

vs. )

TENNESSEE ORTHOPAEDIC )  
ALLIANCE, P.A. )

Defendant. )

CIVIL ACTION  
DOCKET NO. 20-0615-BC

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**AFFIDAVIT AND DECLARATION OF MARTIN A. RAMEY  
IN SUPPORT OF FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND  
CERTIFICATION OF SETTLEMENT CLASS**

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Martin A. Ramey, being first duly sworn, deposes and states as follows:

1. I am employed by the Rhine Law Firm, P.C. in Wilmington, North Carolina. I have personal knowledge of the following matters and can testify competently thereto:

2. I am a duly licensed attorney and may practice before all state courts in California and North Carolina. In addition, I am admitted to the bars of the Southern District of California, the Central District of California, the Southern District of Indiana, the Eastern District of North Carolina, the Middle District of North Carolina and the Western District of North Carolina.

3. I have been licensed to practice law since 2002 in California and 2005 in North Carolina. Over the last 18 years, I have represented plaintiffs in a variety of complex matters, including multi-party, multi-million-dollar construction defect cases; securities fraud litigations and arbitrations; pharmaceutical and medical device mass tort litigations (state consolidations and MDLs) as well as class actions. I am currently serving with Joel Rhine as counsel in the following class actions pending before federal and state courts:

- a. *Boykin v. Tennessee Orthopaedic Alliance, P.A.*, Chancery Court for the State of Tennessee – Twentieth Judicial District, Davidson County, Case No. 20-0615-BC (Data Breach);
- b. *Griffey v. Magellan Health, Inc.*, U.S. District Court, District of Arizona, Case No. 2:20-cv-001282-SPL (Data Breach);
- c. *Ranson v. Magellan Health, Inc.*, U.S. District Court, District of Arizona, Case No. 2:20-cv-001350-SPL (Data Breach);
- d. *Dearing v. Magellan Health, Inc.*, Superior Court of Arizona for Maricopa County, Case No. CV2020-013648 (Data Breach);
- e. *Peticos v. Oral and Maxillofacial Surgery Associates, P.C.*, Court of Common Pleas, Spartanburg County, South Carolina, Case No.: 2020-CP-4203041 (Data Breach);
- f. *McCreary v. Filters Fast, LLC.*; U.S. District Court, Western District of North Carolina, Case No. 3:20-cv-00595 (Data Breach);
- g. *Calixte, Hurling et al v. Dave, Inc.*; U.S. District Court, Central District of California, Western Division, Case No. 2:20-cv-07704 (Data Breach);
- h. *Wrenfro v. Cano Health, LLC*; Circuit Court of the Eleventh Judicial Circuit – Miami Dade County, Florida, Case no 2020-017926-CA-01 (Data Breach);
- i. *John Does 1-10 v. The New Hanover County Board of Education, et al.*, Superior Court of New Hanover County, North Carolina, Case No. 19-CVS-2745 (Teacher Sexual Abuse);
- j. *Jane Does 1-2 v. The New Hanover County Board of Education, et al.*, Superior Court of New Hanover County, North Carolina, Case No. 20-CVS-1395 (Teacher Sexual Abuse);
- k. *In Re: Deva Concepts Products Liability Litigation*; U.S. District Court, Southern District of New York, Case No. 1:20-cv-01234 (Product Liability);

1. *Johnson et al v. Lend Lease (US) Public Partnerships, LLC, et al*; U.S. District Court, Eastern District of North Carolina, Case No. 7:20-cv-00174 (Military Member housing); and
  - m. *Rodzick Law Group, PLLC, et al v. Hartford Casualty Insurance Group, et al*; U.S. District Court, Eastern District of North Carolina, Case No. 7:20-cv-00224 (Breach of Insurance Contract).
4. I appear before this Honorable Court pursuant to a Pro Hac Vice admission by Order dated July 3, 2020.
5. My experience in consolidated cases includes *In re Vioxx Litigation*, Superior Court of Atlantic County, New Jersey; *In re Guidant Litigation*, MDL-1708 (with four potential cases chosen as potential bellwethers and defending client and family depositions); and *In re 3M Products Liability Litigation*, MDL 2885, Northern District of Florida, among others.
6. My role in this current litigation has consisted of interviewing potential clients, researching the legal and factual issues involved, assisting in the drafting and review of the complaint and other papers filed in this matter, drafting and review of written discovery requests, consulting with expert witnesses, as well as participating in the mediation and all other facets of the case to date.
7. Over the years, I have been published twice for my research and writing in two law reviews, have been recognized as a Rising Star by *SuperLawyer Magazine* and recognized by Lawyers of Distinction for Civil Litigation, among other achievements. Formerly, I was a member of the Los Angeles County Bar Association, the Eastern Bar Association of Los Angeles County, the San Diego County Volunteer Lawyers' Program and the Mt. San Antonio College Paralegal Advisory Committee. Currently, I am a member of the North Carolina Advocates for Justice and the North Carolina Bar Association, where I also serve on the Future of Law Committee.
8. I earned my Juris Doctor from the University of San Diego School of Law in 2002, where I served as a member and the Executive Comments Editor and Symposium Coordinator on

the *San Diego Law Review*. And, in 2009, I completed an LL.M. degree, *magna cum laude*, at the Indiana University Robert H. McKinney School of Law.

9. I was brought into this case in the middle of March 2020, as the COVID-19 crisis began to unfold in the country. Initially, my role was to conduct research into the legal issues presented by the case, conduct factual research, interview clients, draft an initial complaint for review by other attorneys involved in the case and to draft an initial set of written discovery to be served with the complaint, including but not limited to 25 Interrogatories and 11 Requests for Production

10. In addition, I began to work with two information technology and cybersecurity consultants to better understand the technical issues involved with the case and to determine the type of relief that they believed would be appropriate to seek in this action. Over the course of working with them, we also identified various documents that were needed to further assess the extent of the data breach and sufficiency of the policies and procedures employed by TOA prior to the actual breach. These document requests were in addition to the ones previously requested and concerned a number of technical documents relating to TOA's cybersecurity practices and investigation into the breach.

11. My work with clients included not only interviewing clients but collecting and reviewing their documents and drafting the individual allegations related to them in the complaint.

12. Once the case was filed, and discussions began with counsel for TOA, I turned by research and attention to matters involving TOA's legal arguments and the potential for resolving the differences of opinion in the parties' legal positions. This led to an informal production of documents from TOA that needed to be reviewed and discussed with our experts. This also included the scope of options available to Plaintiffs and Class Members to address the impacts of the data breach.

13. I also attended a long mediation session between the parties and mediator that met over the course of nearly 11 hours. While productive, initially the session did not resolve the case, and additional negotiations with defense counsel were required. Ultimately, we were able to arrive

at a proposed settlement that has been approved by this Court and is being recommended to the Court now for Final Approval.

14. Over the course of my involvement with this case, and not including the preparation of this affidavit, I have rendered approximately 49.80 hours of professional legal services in the case. In my opinion, this time is not only reasonable, but it was necessary to assist in moving this litigation forward to the point where we are today.

15. The proposed Settlement provides significant benefits for Settlement Class Members that they otherwise may not receive and based on the damages sustained by any one class member and the expensive nature of litigation, a class member may not have sought to pursue their individual claims in litigation. A class action advances the purpose of advancing the interests of many individuals in one single forum.

16. I believe that the relief achieved through the settlement is close to if not the same relief we would have achieved had we taken the case to trial and succeeded.

17. I have likewise been involved with the status of the settlement claims process and have spoken to a number of individual Class Members who have had questions regarding the process. Having done that, having reviewed and become familiar with the terms of the settlement, and having seen the claims process put into place, it is my opinion that the settlement is fair, reasonable, and adequate and that the settlement should be given final approval.

18. That said, I expect to continue to be involved in this case, as additional issues are presented to us to either resolve or to review. For instance, I would expect that if certain claims are not approved by the Settlement Administrator and the Class Member requests that it be reconsidered, that I will be part of the team of lawyers representing the parties to review those decisions. As well, as the Settlement requires TOA to produce the results of audits as to the Business Practice Commitments it undertakes that I will be reviewing those audits and consulting with our information and cybersecurity consultants to ensure that the concerns about TOAs' security practices are acceptable to mitigate the risk of any future attack.

19. Our firm is primarily a contingency law firm, and we initially took this case on a contingency. We took on this representation on a purely contingent basis and informed our clients from inception that the action would be litigated as a class action with no prediction regarding the outcome.

20. To date, we have not received any compensation for our efforts to investigate, bring and prosecute the action. Neither have we received reimbursement for any expenses that our firm has incurred. We have covered the costs of all mailings, copies, filing charges, postage, retainers for consultant and expert witnesses, and other items. We have likewise worked in an efficient and streamlined manner among our firm and that of our co-counsel to ensure that we avoid duplication of work and employ effective collaboration.

21. My personal billing rate in this case is \$400 per hour. That hourly rate is reflective of market rates within our local community and is significantly below billing rates that I previously enjoyed when I practiced in larger markets. Further, I believe, that my rate is extremely reasonable given my experience in complex litigation, as well as nearly 12 years of experience teaching civil procedure.

22. Based upon my investigation, research, review, interviews as well as my personal knowledge and experience, I believe that the settlement is in the best interest of the Class and that the settlement is fair, reasonable and adequate. The benefits afforded by the settlement reflect a reasoned compromise which not only takes into consideration the risks inherent in all complex, class litigation, but also the various issues in this case specifically, which had the potential to completely eliminate recovery for the Class.

23. While I believe that the claims asserted in this action have merit and that the evidence developed to date supports those claims, I also recognize and acknowledge, based on my experience, the expense and length of time necessary to prosecute this case to judgment. I have also taken into account the uncertain outcome and risk of any litigation, as well as the difficulties and delays that come naturally in litigation.

24. I believe that the request of \$255,300 in attorneys' fees and expenses is reasonable, if not modest, in relation to the actual costs that could be incurred in litigating this matter.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 2nd day of December, 2020 at Wilmington, North Carolina.

/s/ Martin A. Ramey  
MARTIN A. RAMEY, ESQ.