

Declaration of Brian Smitheman of Heffler Claims Group
in Support of Final Approval of Settlement

Exhibit C 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

**DECLARATION OF BRIAN SMITHEMAN OF HEFFLER CLAIMS GROUP IN
SUPPORT OF FINAL APPROVAL OF SETTLEMENT**

I, Brian Smitheman, declare as follows:

1. I am the Client Services Manager for Heffler Claims Group (“Heffler”) in Philadelphia, Pennsylvania. I am over twenty-one years of age and am authorized to make this declaration on behalf of Heffler and myself. The following statements are based on my personal knowledge and information provided by other experienced Heffler employees working under my supervision. This declaration is being filed in support of final approval of the Settlement.

2. Heffler has extensive experience in class action matters, having provided services in class action settlements involving antitrust, securities fraud, employment and

labor, consumer, and government enforcement matters. Heffler has provided notification and/or claims administration services in more than 2,500 cases.

3. Heffler was appointed as the Settlement Administrator to provide notification and claims administration services in the *Boykin v Tennessee Orthopaedic Alliance, P.A Case No. 20-0615-BC*, referred to herein as the “Settlement.” Heffler’s duties in this Settlement have and will include: (a) receiving and analyzing the Class Member data (“the Class List”) from defense counsel; (b) establishing a post office box for the receipt of general mail and correspondence; (c) creating a website with online claim filing capabilities; (d) establishing a toll-free number with an Interactive Voice Response (IVR) system; (e) preparing and mailing Notice; (f) receiving and processing opt-outs and objections; (g) receiving and processing claim forms; and (h) such other tasks as counsel for the Parties or the Court orders Heffler to perform.

4. On September 30, 2020, Heffler received a data file containing 60,295 records. The data file’s key components were first name, last name, address, city, state, zip code, and package label. Heffler performed an analysis of the data to determine that all records provided were unique. Out of the 60,295 it was determined that 60,114 of the records were unique.

5. The Proposed Notice Program set forth in the Settlement Agreement, including the Claim Form, Postcard Notice and Long form Notice satisfy the requirements of Tennessee Rule of Civil Procedure 23.03, provide the best notice practicable under the circumstance.

6. In order to provide the best notice practicable, Heffler ran the updated Class List through the USPS' National Change of Address ("NCOA") database and updated the Class List with address changes received from the NCOA. On October 29, 2020, Heffler caused the mailing of postcard Notices to 60,114 Class Members.

7. On October 1, 2020, Heffler obtained a post office box and continues to use the mailing address *Boykin v. Tennessee Orthopaedic Alliance Settlement*, c/o Settlement Administrator, P.O. Box 7390, Philadelphia, PA 19101-7390 in order to receive exclusion requests, objections, Claim Forms, and other communications regarding the Settlement.

8. As of November 27, 2020, Heffler has received 4 pieces of mail correspondence received through the P.O. Box.

9. On October 5, 2020, Heffler created and is currently hosting a dedicated website entitled www.TOAsettlement.com. The website went live on October 28, 2020. The website contains a summary of the Settlement, frequently asked questions, the Settlement Agreement, the Preliminary Approval Order, the Long Form Notice, Claim Form, Plaintiff's Motion for Preliminary Approval Order, information on the claim filing/exclusion/objection deadlines and allows Class Members the opportunity to file a Claim Form online. Class Members have access to the Settlement Website 24 hours a day. The Settlement Website continues to be fully operational and fully functional.

10. As of November 27, 2020, 2,906 users have visited the website totaling 6,156 pages viewed.

11. On October 7, 2020, Heffler established and is still maintaining a toll-free number, 1-833-537-1184, for Class Members to call and obtain additional information regarding the Settlement using an IVR system.

12. As of November 27, 2020, 935 Class Members have called the IVR to get more information about the case.

13. On or about October 2, 2020, Heffler received Word versions of the Long Form Notice, Postcard Notice and Claim Form from counsel. The Notices explained the terms of the Settlement and informed Class Members of their rights, including the process to seek exclusion from the Settlement, object to the Settlement, and how to submit a Claim Form and the deadlines associated with those actions. In all respects, Heffler has implemented the Notice Plan that was approved by this Court. Copies of the final Long Form Notice, Postcard Notice, and Claim Form are attached as **Exhibits A, B, and C** respectively.

14. As of November 27, 2020, Heffler has received and processed 45 pieces of correspondence received through the Settlement Website.

15. As of November 27, 2020, Heffler has received one request for exclusion from the Settlement, a copy of the exclusion is attached as **Exhibit D**.

16. As of November 27, 2020, Heffler has not received any objections to the Settlement.

17. As of November 27, 2020 Heffler, has received a total of 562 claims filed using the Online Claim Form and 18 claims filed by mail. In accordance with the

Settlement Agreement, the claim period is to remain open until December 28, 2020. Heffler is still in the process of reviewing and validating claims and will be prepared to provide the court an update after the close of the claim period.

18. I declare under penalty of perjury under the laws of the State of Tennessee that the above is true and correct to the best of my knowledge and that this declaration was executed on November 27, 2020 in Philadelphia Pennsylvania.

Brian Smitheman

Brian Smitheman

Exhibit A

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

**A Settlement Has Been Reached In A Class Action Lawsuit Against
Tennessee Orthopaedic Alliance, P.A. Claiming That Personally Identifiable
Information And Protected Health Information Of Approximately
81,146 Patients Was Compromised Due To An Email Phishing Attack.**

A court authorized this notice. You are not being sued. This is not a solicitation from a lawyer.

- A Settlement Agreement has been reached in a class action lawsuit against Tennessee Orthopaedic Alliance, P.A. (“TOA”), Case No. 20-0615 in the Circuit Court of Davidson County, Tennessee for the Twentieth Judicial District at Nashville.
- The lawsuit is related to a Phishing Attack when two of its employees were the subject of successful email phishing attacks, resulting in the compromise of emails and personally identifiable information (“PII”) and protected health information (“PHI”) of approximately 81,146 TOA patients.
- Among the potentially compromised data were patient names, dates of birth, contact information (addresses, phone numbers and email addresses), health insurance information, treatment or diagnostic information (including codes), and/or treatment cost information. It is possible that some Settlement Class Member’s social security numbers were also compromised.
- If you have been affected by the unauthorized disclosure, you may be entitled to payment or other relief under the Settlement reached in the case.
- As part of this Settlement, TOA has agreed to pay eligible Settlement Class Members for certain types of claims, provide Credit Monitoring and Fraud Resolution Services and undertake certain preventative security measures. All Settlement Class Members will be automatically enrolled for three years of Identity Guard’s® Fraud Resolution Services. However, you must submit a claim using a Claim Form in order to receive any other benefits under the Settlement.

**YOUR LEGAL RIGHTS ARE AFFECTED WHETHER YOU ACT OR DON’T ACT,
SO READ THIS NOTICE CAREFULLY.**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
FILE A CLAIM	The only way to get benefits under this Settlement. You must file a claim by December 28, 2020 .
ASK TO BE EXCLUDED	Get no benefits. This is the only option that may allow you to sue TOA over the claims being resolved by this Settlement. You must exclude yourself by December 28, 2020 .
OBJECT	Write the Court about why you do not think this Settlement is fair, reasonable, or adequate. You must object by December 28, 2020 .
GO TO A HEARING	Ask to speak in Court about the fairness of the Settlement.
IF YOU DO NOTHING	Get no benefits. Give up your rights to sue TOA about the legal claims in this case.

The Court still must decide whether to approve the Settlement. No payments will be made until after the Court grants Final Approval of the Settlement and all appeals, if any, are resolved.

Note that any capitalized terms not defined herein shall have the meanings ascribed to them in the Settlement Agreement. Additionally, to the extent there are any conflicts or inconsistencies between this form and the Settlement Agreement, the terms of the Settlement Agreement shall govern.

WHAT THIS NOTICE CONTAINS

BASIC INFORMATION	3
1. What is this Lawsuit about?	3
2. What is a class action?	3
3. Why is there a Settlement?.....	3
4. How do I know if I am a part of the Settlement?	3
THE SETTLEMENT BENEFITS	3
5. What relief is available to Settlement Class Members and how do I receive benefits?.....	3
6. What am I giving up to receive these benefits?	5
7. How much will the Class Representatives receive?.....	5
THE LAWYERS REPRESENTING YOU	5
8. Do I have a lawyer in this case?.....	5
EXCLUDE YOURSELF	5
9. I don't want to be part of this case. How do I ask to be excluded?	5
OBJECT	6
10. How do I object to the Settlement?	6
THE FINAL APPROVAL HEARING	7
11. When and where will the Court decide whether to approve the Settlement?	7
GET MORE INFORMATION	7
12. How do I get more information about the Settlement?	7

BASIC INFORMATION

1. What is this Lawsuit about?

This Lawsuit was filed on behalf of TOA's current and former patients in connection with a Phishing Attack at TOA that occurred between August and October 2019. Plaintiffs' Complaint asserts claims for negligence, negligence *per se*, invasion of privacy and public disclosure of private facts, breach of implied contract, unjust enrichment, and constructive fraud. The Lawsuit requests an award of monetary damages as well as equitable, declaratory, and injunctive relief compelling TOA to adopt reasonably sufficient security practices to safeguard patient personally identifiable information and protected health information that remains in TOA's custody.

TOA denies any wrongdoing and denies all claims asserted against it in the Lawsuit. Both sides have agreed to settle the Lawsuit to avoid the cost, delay, and uncertainty of litigation.

You can read Plaintiff's Amended Complaint, the Settlement Agreement, and other case documents, as well as download a Claim Form, at www.TOASettlement.com

2. What is a class action?

In a class action, Class Representatives (in this case, Plaintiffs William Boykin and Sally Robbins), sue on behalf of a group (or a "Class") of people. Here, the Class Representatives sued on behalf of people whose Personally Identifiable Information ("PII") and Personal Health Information ("PHI") was potentially compromised from TOA's computer systems during Phishing Attacks and who suffered injury or harm resulting from the Phishing Attack.

3. Why is there a Settlement?

To avoid the cost, risk, and delay of litigation, the Parties reached a Settlement as to the claims of Plaintiff and the Settlement Class.

4. How do I know if I am a part of the Settlement?

For Settlement purposes, the Court has certified a Settlement Class consisting of all people who meet the following definition: All individuals residing in the United States who, on or about February 14, 2020, were notified via mail of the Phishing Attack by Tennessee Orthopaedic Alliance, P.A.'s that occurred between August and October 2019. Excluded from the Settlement Class are: (1) the Judge presiding over this Litigation, the Judge's immediate family members and any members of the Judge's judicial staff; (2) the officers, directors, and employees of Tennessee Orthopaedic Alliance, P.A.; (3) Class Counsel and their immediate family members; and (4) Settlement Class Members who submit a valid Request for Exclusion prior to the Opt-Out Deadline.

THE SETTLEMENT BENEFITS

5. What relief is available to Settlement Class Members and how do I receive benefits?

To obtain a recovery, you must submit a Claim Form along with reasonable documentation and/or a proper attestation. This is the only way to get a payment or receive the Credit Monitoring Services.

However, all Settlement Class Members will automatically receive Fraud Resolution Services. Settlement Class Members who submit a valid and timely Claim Form, accompanied by proper documentation, may be entitled to the following forms of relief:

- **Monetary Compensation:** The Settlement provides for a cash payment of up to a sum of two thousand dollars (\$2,000) as reimbursement of certain losses arising out of the Data Breach, consisting of the following:
- **Out of Pocket Expenses.** You will receive reimbursement for all documented out-of-pocket expenses that you incurred (or made) related to the Phishing Attack after February 14, 2020. The following are examples of allowed documented out-of-pocket expenses:
 - Unreimbursed bank, credit card fees and expenses;
 - Unreimbursed charges related to unavailability of funds;
 - Other Unreimbursed late fees and charges;
 - Long distance telephone charges;
 - Cell minutes (if charged by the minute);
 - Internet usage charges (if either charged by the minute or incurred solely as a result of the Phishing Attack);
 - Interest on payday loans taken as a result of the Phishing Attack;
 - Interest paid on missed or late payments due to credit freezes;
 - Interest on late payments;

- Costs of credit reports or credit monitoring;
 - Payments to professionals such as bookkeepers, accountants and lawyers; and
 - Other losses incurred by a Participating Settlement Class Member that the Settlement Administrator determines is fairly traceable to the Phishing Attack.
- **Lost Time.** You can receive reimbursement at the hourly rate of \$15.00 per hour for up to six (6) hours of time you spent dealing with the Phishing Attack as follows. For the first 3 hours, you need only attest that the time was spent as a result of the Phishing Attack. If you spent more than 3 hours dealing with the Phishing Attack, then compensation for up to an additional 3 hours will be provided if you provide documentation of these additional hours. If supporting documentation cannot be provided, then you may provide the Settlement Administrator with written statement of the reason documentation cannot be provided and if the reason is deemed reasonable, you will be paid.
 - **One Year of Credit Monitoring.** You can receive one year of the service named “Identity Guard Total powered by IBM Watson,” that includes:
 - Up to \$1 Million Dollars reimbursement insurance from AIG covering losses due to identity theft and stolen funds;
 - Three bureau credit monitoring providing notice of certain changes to the enrolled Settlement Class Member’s credit profile, including at least two credit bureau inquiry alerts in real-time;
 - Real time authentication alerts in as little as three seconds when someone attempts to make a change to enrolled Settlement Class Members’ personal account information within Identity Guard’s network;
 - LexisNexis Authentication Alerts utilizing LexisNexis’ database of legal, governmental and newsworthy incidents;
 - Alerts based on searches of payday-loan providers and court records and monitoring of the top ten largest U.S. financial institutions, for attempted or actual fraudulent use of the enrolled Settlement Class Members’ information;
 - Online income tax filing alerts provided by LexisNexis;
 - Dark Web Monitoring that will provide notification if an enrolled Settlement Class Member’s information such as social security number, credit card numbers, financial account numbers, and health insurance number are found on the Dark Web;
 - Threat Alerts powered by IBM “Watson’s” artificial intelligence of potential threats relevant to the enrolled Settlement Class Members found by IBM Watson’s artificial intelligence, for instance: breaches, phishing scams, and malware vulnerabilities;
 - Customer support and victim assistance provided by Identity Guard®;
 - Anti-phishing Applications for iOS & Android Mobile devices; and
 - Safe browsing software for personal computers and Macs to help protect the enrolled Settlement Class Member’s computer(s) against malicious content with an add-on for Safari, Chrome, and Firefox web browsers that delivers proactive malware protection by blocking various malware delivery channels including phishing, malvertisements, and Flash (the extension also blocks content and tracking cookies to help protect personal information).

Note: If you already received Credit Monitoring through Kroll offered by TOA after the Phishing Attack, then the Identity Guard Total powered by IBM Watson will be in addition to the monitoring received through Kroll.

Even if you do not file a Claim, all Settlement Class Members will receive:

- **Three Years of Fraud Resolution Services.** All Settlement Class Members will receive Identity Guard® Fraud Resolution Services where Victim Recovery Specialists (“VRS”) assist Participating Class Members through a step-by-step recovery process and will also provide consultation and support to help alleviate anxiety.

Once engaged, this team of professionals will place fraud alerts on your credit file and outline the required steps for continued protection. In the event a Participating Settlement Class Member’s information is compromised, the VRS agent will register the event in Identity Guard’s proprietary Case Management System and a Dedicated Case Manager will be assigned to assist the Participating Settlement Class Member for the duration of their identity theft recovery. Dedicated Case Manager duties include:

- Obtaining a real-time three bureau (Equifax®, Experian®, and TransUnion®) credit report and reviews in detail with the Participating Settlement Class Member;
- Contacting the Participating Settlement Class Members’ affected creditors where permissible;
- Assisting the Participating Settlement Class Member in placing fraud alerts on their credit files;
- If needed, working with a limited Power of Attorney (POA);
- Providing full documentation in Identity Guard’s Case Management System (CMS); and

To exclude yourself, you must send a letter by mail that:

- (i) states your full name, address and telephone number,
- (ii) Contains your signature or the signature of the person authorized by law to sign on behalf of you, and
- (iii) States unequivocally that you intend to be excluded from the Settlement Class and from the Settlement. You must mail your exclusion request, postmarked no later than **December 28, 2020**, to: *Boykin v Tennessee Orthopaedic Alliance Settlement*, c/o Settlement Administrator, PO Box 7390, Philadelphia, PA 19101-7390.

OBJECT

10. How do I object to the Settlement?

Any Settlement Class Member who has not requested to be excluded from the Settlement Class may object to the Settlement. In order to exercise this right, you must submit your objection to the Court.

Your objection must include:

- (i) The name of the Litigation, *Boykin v Tennessee Orthopaedic Alliance Settlement*, Case No. 20-0615;
- (ii) Your full name, address, email address, and telephone number;
- (iii) an explanation of the basis upon which you claim to be a Settlement Class Member;
- (iv) All grounds for the objection, accompanied by any legal support for the objection;
- (v) The identity of all counsel who represent you, including any former or current counsel who previously represented you and may be entitled to compensation for any reason related to the objection to the Settlement, the fee application, or the application for Service Award;
- (vi) The identity of all counsel representing you who will appear at the Final Approval Hearing;
- (vii) The number of times in which you have objected to a class action settlement within the five (5) years preceding the date on which you file the objection, the caption of each case in which you have made such objections, and a copy of any orders related to or ruling upon your prior such objections that were issued by the trial and appellate courts in each listed case;
- (viii) The number of times in which your counsel and/or counsel's law firm have objected to a class action settlement within the five (5) years preceding the date that you file the objection, the caption of each case in which the counsel or the firm has made such objections, and a copy of any orders related to or ruling upon counsel's or the firm's prior such objections that were issued by the trial and appellate courts in each listed case;
- (ix) Any and all agreements that relate to the objection or the process of objecting, whether written or verbal, between you or your counsel and any other person or entity;
- (x) A list of any persons who will be called to testify at the Final Approval Hearing in support of the objection;
- (xi) A statement confirming whether you intend to personally appear and/or testify at the Final Approval Hearing; and
- (xii) Your signature on the written objection (an attorney's signature is not sufficient).

If you wish to object to the proposed Settlement you must mail or hand-deliver written objections to the Settlement ("Objections") to Class Counsel and TOA's Counsel, at the addresses set forth below.

Alternatively, you or your counsel may file Objections with the Court through the Court's electronic case filing ("ECF") system, with service on Class Counsel and Defendants' Counsel made through the ECF system.

Objections also must be delivered to the Settlement Administrator on or before December 28, 2020.

Settlement Administrator's Address

Boykin v Tennessee Orthopaedic Alliance Settlement
c/o Settlement Administrator
PO Box 7390,
Philadelphia, PA 19101-7390

- Working to full resolution with the Participating Settlement Class Member.

The Settlement Administrator will provide the Settlement Class List to Identity Guard who will enroll all Settlement Class Members to receive the Fraud Resolution Services. You do not need to do anything in order to receive this benefit.

Business Practice Commitments. TOA has provided information to the Class Representatives and Class Counsel regarding improvements to its information security systems since the Phishing Attack and has further agreed to implement a robust set of Business Practice Commitments for at least two years, including access improvements, logging improvements, email security improvements, policy review improvements, encryption improvements, audit improvements and verification to Class Counsel, password improvements, MFA advancements, and training improvements.

You can submit a Claim Form online or download the Claim Form at www.TOASettlement.com and mail it to:

Boykin v Tennessee Orthopaedic Alliance Settlement

c/o Settlement Administrator
PO Box 7390
Philadelphia, PA 19101-7390

Again, all Claim Forms must be submitted online, or mailed and postmarked, no later than [December 28, 2020].

6. What am I giving up to receive these benefits?

By staying in the Class, all of the Court's orders will apply to you, and you give TOA a "release." A release means you cannot sue or be part of any other lawsuit against TOA about the claims or issues in this Lawsuit (relating to the Phishing Attack), and you will be bound by the Settlement. The specific claims you are giving up against TOA and related persons or entities are called "Released Claims." The Released Claims are described in Section VI of the Settlement Agreement, which is available under the Documents page at www.TOASettlement.com. The Settlement Agreement describes the Released Claims with specific and accurate legal descriptions, so read it carefully.

7. How much will the Class Representatives receive?

The Class Representatives will receive their portion of the Settlement as Settlement Class Member's if they opt to submit a Claim. These two Class Representatives also each will receive a payment of up to \$3,850 as a Service Award for having pursued this action. Any Service Award is subject to Court approval.

THE LAWYERS REPRESENTING YOU

8. Do I have a lawyer in this case?

To represent the Class, the Court has appointed Joel R. Rhine and Martin A. Ramey of the Rhine Law Firm, P.C. and Micah S. Adkins of the Adkins Firm, P.C. as "Class Counsel." You can contact Class Counsel at:

RHINE LAW FIRM, PC
1612 Military Cutoff Road, Suite 300
Wilmington, NC 28403
Telephone: (910) 772-9960
Facsimile: (910) 772-9062
jrr@rhinelawfirm.com
mjr@rhinelawfirm.com

The Adkins Firm, P.C.
1025 Westhaven Blvd, Suite 220
Franklin, TN 37064
Telephone: (615) 370-9659
Facsimile: (205) 208-9632
MicahAdkins@ItsYourCreditReport.com

For litigating the case and negotiating the Settlement, Class Counsel will request from the Court an award of attorneys' fees, costs and expenses not to exceed \$255,300, to be paid separately from the monetary relief being made available for Settlement Class Members' claims. Any award of attorneys' fees and costs and expenses are subject to Court approval. You may hire your own attorney, but only at your own expense.

EXCLUDE YOURSELF

9. I don't want to be part of this case. How do I ask to be excluded?

If you don't want a cash payment or the Credit Monitoring or Fraud Resolution Services offered by this Settlement and you want to keep the right to sue TOA about issues relating to the Phishing Attack, then you must take steps to get out of the Settlement. This is called "excluding" yourself or "opting out" of the Settlement Class.

Class Counsel Address

Joel R. Rhine
North Carolina Bar No. 16028
Martin A. Ramey
North Carolina Bar No. 33617
RHINE LAW FIRM, PC
1612 Military Cutoff Road, Suite 300
Wilmington, NC 28403
Telephone: (910) 772-9960
Facsimile: (910) 772-9062
jrr@rhinelawfirm.com
mjr@rhinelawfirm.com

Micah S. Adkins
Tennessee Bar No. 036451
The Adkins Firm, P.C.
1025 Westhaven Blvd, Suite 220
Franklin, TN 37064
Telephone: (615) 370-9659
Facsimile: (205) 208-9632
MicahAdkins@ItsYourCreditReport.com

The address of TOA's counsel is:

Casie D. Collignon
Matthew D. Pearson
Baker Hostetler
1801 California Street, Suite 4400
Denver, CO 80202
Telephone: (303) 764-4037
Facsimile: (303) 861-7805
ccollignon@bakerlaw.com
mpearson@bakerlaw.com

Anthony J. McFarland (No. 009551)
BASS BERRY & SIMS PLC
150 Third Avenue South, Suite 2800
Nashville, TN 37201
Telephone:(615) 742 6200
Facsimile:(615) 742 6293
Email: amcfarland@bassberry.com

THE FINAL APPROVAL HEARING

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

The Court will hold a Final Approval Hearing on January 14, 2021 at Metro Courthouse 1 Public Square, Nashville, TN. The purpose of the hearing will be for the Court to determine whether the proposed Settlement is fair, reasonable, and adequate and in the best interests of the Settlement Class, and to rule on applications for compensation for Class Counsel and an incentive award for the Class Representatives. At that hearing, the Court will be available to hear any objections and arguments concerning the fairness of the proposed Settlement.

YOU ARE **NOT** REQUIRED TO ATTEND THIS HEARING TO BENEFIT FROM THIS SETTLEMENT. The hearing may be postponed to a later date without notice.

If you have objected to the Settlement and intend to appear at the Final Approval Hearing, either with or without counsel, you must file a notice of appearance with the Court, and serve it on Class Counsel and Defendants' Counsel at the addresses above, by **December 28, 2020**. If you intend to appear at the Final Approval Hearing through counsel, you also must identify the attorney(s) representing you who will appear at the Final Approval Hearing and include the attorney(s) name, address, phone number, e-mail address, state bar(s) to which counsel is admitted, as well as associated state bar numbers.

GET MORE INFORMATION

12. How do I get more information about the Settlement?

Additional information and documents, including case documents, are available at www.TOASettlement.com or by contacting the Settlement Administrator at 1-833-537-1184 or writing to the Settlement Administrator at Boykin v Tennessee Orthopaedic Alliance Settlement, c/o Settlement Administrator, PO Box 7390 Philadelphia PA 19101-7390 .

PLEASE DO NOT CALL THE COURT, THE JUDGE, CLASS COUNSEL, TOA OR THEIR COUNSEL WITH QUESTIONS ABOUT THE SETTLEMENT OR CLAIMS PROCESS.

Exhibit B

Boykin v Tennessee Orthopaedic Alliance Settlement
c/o Settlement Administrator
P.O. Box 7390
Philadelphia, PA 19101-7390

FIRST-CLASS MAIL
U.S. POSTAGE PAID
CITY, ST
PERMIT NO. XXXX

Court-Ordered Legal Notice

A Settlement has been reached in a class action lawsuit against Tennessee Orthopaedic Alliance, P.A. claiming that personally identifiable information and protected health information of approximately 81,146 patients was compromised due to an email phishing attack.

TOA Records indicate that you are a potential Class Member, entitled to a benefit under this Settlement.

<<Barcode>>

Class Member ID: <<Refnum>>
<<FirstName>> <<LastName>>
<<BusinessName>>
<<Address>>
<<Address2>>
<<City>>, <<ST>> <<Zip>>-<<zip4>>

[BARCODE AREA]

What is this about?

The lawsuit alleges that TOA violated certain duties with respect to the personal data of patients when patients' PII and PHI was compromised in a Phishing Attack. This information may have included patient names, dates of birth, contact information, diagnostic and treatment information and possibly social security numbers. TOA denies any wrongdoing and denies all claims asserted against them in the Lawsuit. Both sides have agreed to settle the Lawsuit solely to avoid the uncertainty of litigation.

Who is included?

All individuals residing in the United States who, on or about February 14, 2020, were notified via mail of a Phishing Attack by Tennessee Orthopaedic Alliance, P.A.'s that occurred between August and October 2019.

What can I get?

If the Court approves the Settlement, all Class Members will receive complimentary Identity Guard's® Fraud Resolution Services for three years. All Class Members who submit a valid Claim Form with required documentation may be entitled to: (a) reimbursement of certain out-of-pocket expenses resulting from the Phishing Attack; (b) compensation of up to six hours of lost time for dealing with the Phishing Attack at a rate of \$15.00 per hour; and (c) One year of "Identity Guard Total powered by IBM Watson" Credit Monitoring. The total reimbursement amount for documented expenses and lost time will not exceed \$2,000 per claim.

How can I get a payment and/or identity theft protection?

To make a claim and qualify for payment or request enrollment instructions for credit monitoring, you must submit a valid Claim Form online or by mail so that it is Postmarked or submitted no later than **December 28, 2020**. Claim Forms are available online or by calling **1-833-537-1184**.

What are my rights?

Do Nothing. You will be legally bound by decisions of the Court and you will give up any rights to prosecute certain claims against TOA. All Class Members receive complimentary Fraud Resolution Services for 3 years.

Opt-Out. You will not be legally bound by the Settlement, cannot file a claim, cannot get money, and cannot enroll for one year of Credit Monitoring and Three Years of Fraud Resolution Services, but you will keep your right to bring claims or sue TOA for claims relating to this lawsuit. Opt-out requests must be postmarked by **December 28, 2020**.

Object to the Settlement. You may write to the Court and explain why you do not like the Settlement. Objections must be postmarked and filed with the Court by **December 28, 2020**. Complete instructions on how to exclude or object are found in the Full Notice available online.

When will the Court approve the Settlement?

The Court will hold a Final Approval Hearing on **January 14, 2021**, at the **Metro Courthouse 1 Public Square**, Nashville, TN, to consider whether to approve the Settlement. The Court will hear any objections, determine if the Settlement is fair, and consider Class Counsel's request for fees and expenses of up to \$255,300 and a Service Award for the two Class Representatives of \$3,850 each. You may attend the Final Approval Hearing and ask to be heard by the Court, but you do not have to. Attorney fees and costs will be posted on the website after they are filed with the Court.

This is only a summary. For detailed information visit www.TOASettlement.com or call 1-833-537-1184. You may contact the Settlement Administrator at Boykin v Tennessee Orthopaedic Alliance Settlement, c/o Settlement Administrator, PO Box 7390, Philadelphia PA 19101-7390.

Postage
Required

Boykin v Tennessee Orthopaedic Alliance Settlement
c/o Settlement Administrator
P.O. Box 7390
Philadelphia, PA 19101-7390

Exhibit C



3 1 1 1 6 0 0 0 0 0 0 0

FREE CREDIT MONITORING AND FRAUD RESOLUTION SERVICES

All Settlement Class Members who submit a Valid Claim shall receive free Credit Monitoring.

I affirm that I would like to receive free Credit Monitoring.

All Settlement Class Members will also receive free Fraud Resolution Services regardless of whether they submit a Claim. After the Settlement is approved, you will receive further instructions on enrollment via email or US mail.

CASH REIMBURSEMENTS

This Settlement provides cash payments for documented out-of-pocket expenses and lost time in an amount not to exceed \$2,000.

OUT-OF-POCKET EXPENSES You may claim documented out-of-pocket expenses you incurred after February 14, 2020 that were related to the Phishing Attack. You must provide supporting documentation or a valid reason why documents are not available.

TYPE OF EXPENSE INCURRED (check any that apply and include amount for each item selected):

- Unreimbursed bank, credit card fees and expenses Total \$ _____
- Unreimbursed charges related to unavailability of funds Total \$ _____
- Other Unreimbursed late fees and charges Total \$ _____
- Long distance telephone charges Total \$ _____
- Cell minutes (if charged by the minute) Total \$ _____
- Internet usage charges (if either charged by the minute or incurred solely as a result of the Phishing Attack) Total \$ _____
- Interest on payday loans taken as a result of the Phishing Attack Total \$ _____
- Interest paid on missed or late payments due to credit freezes Total \$ _____
- Interest on late payments Total \$ _____
- Costs of credit reports or credit monitoring Total \$ _____
- Payments to professionals such as bookkeepers, accountants and lawyers Total \$ _____

OTHER Please provide a description of any other documented losses incurred related to the Phishing Attack:

Provide a description of the supporting documentation that you have to support the Claim and submit the documentation with your Claim Form*:

*Please do not submit original documents. Instead, make a copy and retain the original for your files.



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Page 2 of 3



3 1 1 1 6 0 0 0 0 0 0 0

If you do not have supporting documentation, please explain why no documentation is available:

If you do not have supporting documentation, please provide a description of the nature of the loss:

REIMBURSEMENT FOR LOST TIME

You may claim up to 6 hours of lost time and receive a cash payment of \$15.00 per hour. You must supply supporting documentation ONLY if you are claiming more than 3 hours of lost time.

How much time did you lose related to the Phishing Attack? _____:_____
Hours Minutes

If you are claiming more than three hours of lost time, provide a description of the supporting documentation and submit the documentation with your Claim Form*:

*Please do not submit original documents. Instead, make a copy and retain the original for your files.

If you are claiming more than 3 hours of lost time and do not have supporting documentation, please explain why no documentation is available:

AFFIRMATION:

By signing below, I affirm that any time and expenses I have claimed were primarily incurred due to the Phishing Attack. I also affirm that the information supplied in this Claim Form and any supplemental documentation attached is true and correct to the best of my knowledge. I further affirm that none of my claimed out-of-pocket expenses have already been reimbursed by any other source. I understand that I may be asked to provide more information by the Settlement Administrator before my Claim is considered complete.

Signature: _____ Date: ____ / ____ / ____
mm/dd/yyyy



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Page 3 of 3

Exhibit D

1. [REDACTED]