

CAUSE NO. 342-339562-23

**SCOTT KAETHER, individually and on
behalf of all others similarly situated,**

Plaintiff,

v.

**METROPOILITAN AREA EMS
AUTHORITY D/B/A MEDSTAR MOBILE
HEALTHCARE**

Defendant.

IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

342ND JUDICIAL DISTRICT

[PROPOSED] PRELIMINARY APPROVAL ORDER

This matter coming before the Court on Plaintiff’s Motion for and Memorandum in Support of Preliminary Approval of Class Action Settlement, and with the Court being fully advised on the premises, the Court hereby finds and orders as follows:

1. Unless defined herein, all defined terms in this order shall have the respective meanings ascribed to the same terms in the settlement agreement (the “Agreement”).

2. The Court has conducted a preliminary evaluation of the settlement set forth in the Agreement. Based on this preliminary evaluation, the Court finds that the Agreement meets all applicable requirements of Tex. R. Civ. P. 42 for settlement purposes only, including that the Settlement Class is sufficiently numerous, that there are questions of law and fact common to members of the Settlement Class that predominate, that the representative parties fairly and adequately protect the interests of the class and that class treatment is an appropriate method for the fair and efficient adjudication of the controversy.

3. The Court further finds that: (i) there is a good cause to believe that the settlement is fair, reasonable and adequate, (ii) the Agreement has been negotiated at arm’s length between

experienced attorneys familiar with the legal and factual issues of this case and (iii) the settlement warrants notice of its material terms to the Settlement Class for their consideration and reaction. Therefore, the Court grants preliminary approval of the Settlement.

4. Pursuant to Section 42 of the Texas Code of Civil Procedure, and for settlement purposes only, the Court certifies the following Settlement Class:

“All persons whose Health Insurance Information was potentially compromised as a result of the cyberattack that MedStar discovered in or about October 2022.”

The Court also Certifies the following Subclass:

“All persons whose medical information protected by the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and other protected health information potentially compromised as a result of the cyberattack that MedStar discovered in or about October 2022.”

Excluded from the Settlement Class are (1) any entity in which MedStar has a controlling interest and (2) the affiliates, legal representatives, attorneys, successors, heirs, and assigns of MedStar. Excluded also from the Class are members of the judiciary to whom this case is assigned, their families and members of their staff.

5. For settlement purposes only, the Court hereby approves the appointment of Plaintiff Scott Kaether as Class Representative.

6. For settlement purposes only, the Court hereby approves the appointment of (i) Gary M. Klinger, Alexander Wolf, and John Nelson of Milberg Coleman Bryson Phillips Grossman and (ii) Joe Kendall of Kendall Law Group, PLLC as Class Counsel and finds that they are competent and capable of exercising the responsibilities of Class Counsel.

7. On April 3, 2024 at 10 a.m., this Court will hold a final approval hearing on the

fairness, adequacy and reasonableness of the Agreement and to determine whether: (a) final approval of the Agreement should be granted and (b) Class Counsel's application for attorney's fees and expenses and an incentive award to the Class Representative should be granted. No later than January 10, 2024 (*i.e.* 14 days prior to the deadline to opt out of or object to the Settlement) Plaintiff must file any papers in support of Class Counsel's application for attorneys' fees and the Enhancement Award to the Class Representative, and no later than March 20, 2024 (*i.e.*, 14 days prior to Final Approval Hearing) Plaintiff must file any papers in support of final approval of the Agreement and in response to any objections.

8. Pursuant to the Agreement, Epiq is hereby appointed as the Settlement Administrator and shall be required to perform all of the duties of the Settlement Administrator as set forth in the Agreement or this Order.

9. The Court approves the proposed plan for giving notice to the Settlement Class, via direct Notice in the U.S. Mail, as fully described in the Agreement. The plan for giving notice, in form, method and content, fully complies with the requirements of Texas laws and due process and is due and sufficient notice to all persons entitled thereto.

10. The Court hereby directs the parties and Settlement Administrator to complete all aspects of the notice plan no later than November 25, 2023 (*i.e.*, 30 days after entry of this Order).

11. All persons who meet the definition of the Settlement Class and who wish to exclude themselves from the Settlement Class must submit their request for exclusion in writing no later than the Objection/Exclusion deadline of January 24, 2024 (*i.e.*, 60 days after the Notice Date). To be valid, any request for exclusion must (a) be in writing; and include (b) the name, address, and telephone number of the Settlement Class Member submitting the request; (c) the name and number of this case; (d) a statement that the Settlement Class Member wishes to be

excluded from the Settlement Class;(e) a signature.; and (f) be postmarked or submitted electronically by the Settlement Administrator on or before the Objection/Exclusion Deadline. A request for exclusion that does not include all of the foregoing information, that is sent to an address other than that designated in the Notice or that is not postmarked or submitted electronically to the Settlement Administrator within the time specified, shall be invalid and the person serving such a request shall be deemed to remain a Settlement Class Member and shall be bound as a Settlement Class Member by the Agreement. Settlement Class Members shall be bound by all determinations and orders pertaining to the Agreement, including the release of all claims to the extent set forth in the Agreement, whether favorable or unfavorable, unless such persons request exclusion from the Settlement Class in a timely and proper manner, as hereinafter provided and as provided in the Agreement. Settlement Class Members who do not timely and validly request exclusion shall be so bound even if they have previously initiated or subsequently initiate litigation or other proceedings against Defendant or the Released Parties relating to the claims released under the terms of the Agreement.

12. Any member of the Settlement Class who intends to object to the Agreement must include in his or her written objection: (1) his/her full name, address, and current telephone number; (2) the name and number of this case; (3) all grounds for the objection, with factual and legal support for the stated objection, including any supporting materials; (4) the identification of any other objections he/she has filed, or has had filed on his/her behalf, in any other class action cases in the last four years; (5) whether the objector intends to appear at the Final Approval Hearing; and (6) the objector's signature. If represented by counsel, the objecting Settlement Class Member must also provide the name and telephone number of his/her counsel. If the objecting Settlement Class Member intends to appear at the Final Approval Hearing, either with

or without counsel, he/she must state as such in the written objection, and must also identify any witnesses he/she may call to testify at the Final Approval Hearing and all exhibits he/she intends to introduce into evidence at the Final Approval Hearing, which must also be attached to, or included with, the written objection.

13. Any Settlement Class Member who fails to timely file a written objection with the Court and notice of his or her intent to appear at the final approval hearing in accordance with the terms of this Order and as detailed in the Notice, and at the same time provide copies to designated counsel for the parties, shall not be permitted to object to the Agreement at the final approval hearing, and shall be foreclosed from seeking any review of the Agreement by appeal or other means and shall be deemed to have waived his or her objections and be forever barred from making any such objections in the Action or any other action or proceeding.

14. Class Members who wish to participate in the settlement and receive their share of the settlement proceeds shall complete and submit a claim form in accordance with the terms and conditions of the Agreement. The Settlement Administrator shall accept and process claim forms in accordance with the Agreement.

15. The certification of the Settlement Class shall be binding only with respect to the Settlement of the Action. In the event that the Agreement fails to become effective, is overturned on appeal or does not become final for any reason whatsoever, the parties shall be restored to their respective positions in the Action as of the date of the signing of the Agreement, and no reference to the Settlement Class, the Agreement or any documents, communications or negotiations related in any way thereto shall be made for any purpose.

17. Pending the final determination of the fairness, reasonableness and adequacy of the Settlement, no Settlement Class Member may prosecute, institute, commence or continue any

lawsuit (individual action or class action) with respect to the Released Claims against any of the Released Parties.

18. A “Final Approval Hearing” shall be held before the Court on April 3, 2024 at 10 a.m. for the following purposes:

- a. to determine whether the Settlement is fair, reasonable and adequate and should be approved by the Court;
- b. to determine whether the judgment as provided under the Agreement should be entered, including an order prohibiting Settlement Class Members from further pursuing claims released in the Agreement;
- c. to consider the application for an award of attorney’s fees, costs and expenses of Class Counsel;
- d. to consider the application for an Service Award to the Class Representative;
- e. to consider the distribution of court-approved attorneys’ fees and any Service Award, as well as any settlement funds to claiming class members pursuant to the Agreement and
- f. to rule upon such other matters as the Court may deem appropriate.

19. The Final Approval Hearing may be postponed, adjourned, transferred or continued by order of the Court without further notice to the Settlement Class. At or following the Final Approval Hearing, the Court may enter a judgment approving the Agreement and a Final Approval Order in accordance with the Agreement that adjudicates the rights of all Settlement Class Members.

20. Settlement Class Members do not need to appear at the Final Approval Hearing or take any other action to indicate their approval.

21. All discovery and other proceedings in the Action as between Plaintiff and Defendant are stayed and suspended until further order of the Court except such actions as may be necessary to implement the Agreement and this Order.

22. For clarity, the deadlines set forth above and in the Agreement are as follows:

Notice Date: November 25, 2023

Motion for Final Approval: March 20, 2024

Motion for Service Award, Attorneys' Fees and Costs: January 10, 2024

Opt-Out Deadline: January 24, 2024

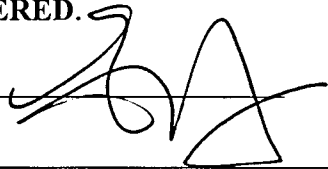
Objection Deadline: January 24, 2024

Claim Deadline: February 23, 2024

IT IS ORDERED.

ENTERED: _____

JUDGE: _____


10-26-23

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Status as of 10/26/2023 3:32 PM CST

Associated Case Party: SCOTTKAETHER

Name	BarNumber	Email	TimestampSubmitted	Status
Alexander Wolf		awolf@milberg.com	10/26/2023 3:27:09 PM	SENT

Associated Case Party: THEMETROPOLITAN AREA EMS AUTHORITY

Name	BarNumber	Email	TimestampSubmitted	Status
josh becker		JBECKER@SHB.COM	10/26/2023 3:27:09 PM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
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Shannon DNorris		sdnorris@norrisfirm.com	10/26/2023 3:27:09 PM	SENT
Joe Kendall		jkendall@kendalllawgroup.com	10/26/2023 3:27:09 PM	SENT
Gary Klinger		gklinger@milberg.com	10/26/2023 3:27:09 PM	SENT
David KevinLietz		DLIETZ@MILBERG.COM	10/26/2023 3:27:09 PM	SENT