

STATE OF NORTH CAROLINA
BUNCOMBE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
25CV000809-100

IN RE ASHEVILLE EYE
ASSOCIATES DATA INCIDENT
LITIG.

**ORDER ON PLAINTIFFS'
UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

WHEREAS, the above-captioned proposed class action is pending in this Court (the “Action”);

WHEREAS, Plaintiffs Robert Woodsmall, Mimi Reynolds, Dena Brito, Robert Ricchetti, and Christopher Miller, individually and on behalf of all others similarly situated (“Plaintiffs”) and Defendant Asheville Eye Associates (“AEA” or “Defendant”) have entered into a Settlement Agreement (the “Settlement Agreement”) that settles the above-captioned litigation and provides for a complete dismissal with prejudice of the claims asserted against Defendant in the above-captioned action on the terms and conditions set forth in the Settlement Agreement, subject to the approval of the Court;

WHEREAS, Plaintiffs have made an application, pursuant to Rule 23 of the North Carolina Rules of Civil Procedure, for an order preliminarily approving the settlement in accordance with the Settlement Agreement, certifying the Settlement Class for purposes of the settlement only, appointing Plaintiffs as Class Representatives, appointing Class Counsel as counsel for the Settlement Class, appointing Kroll Settlement Administration (“Kroll”) as Settlement Administrator, and allowing notice to Settlement Class Members as more fully described herein;

WHEREAS, the Court has read and considered: (a) Plaintiffs' motion for preliminary approval of the settlement, and the papers filed and arguments made in connection therewith; and (b) the Settlement Agreement and exhibits attached thereto; and

WHEREAS, unless otherwise defined herein, the capitalized terms herein shall have the same meaning as they have in the Settlement Agreement.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. **Class Certification for Settlement Purposes Only.** For purposes of preliminary approval of the settlement only and pursuant to North Carolina Rule of Civil Procedure 23(c), the Court certifies, solely for purposes of effectuating the proposed settlement, a Settlement Class in this matter defined as follows:

"All individuals whose PHI/PII was compromised in the Data Incident."

The Settlement Class includes as many as 327,756 people. The Settlement Class specifically excludes: (a) Defendant's officers and directors; (b) any entity in which Defendant has a controlling interest; (c) the affiliates, legal representatives, attorneys, successors, heirs, and assigns of Defendant; (d) attorneys and other legal representatives affiliated with or employed by Class Counsel, and; (e) all persons who validly opt-out of the settlement.

2. **Class Findings:** The Court provisionally finds, for purposes of preliminary approval of the settlement only, that: (1) a class exists such that shared issues of law or fact predominate over individual issues; (2) the named representatives are adequate representatives (i.e. they will fairly and adequately represent the class, there is no conflict of interest between the named representatives

and the class, and the named representatives have a genuine personal interest in the outcome of the case); (3) class members are so numerous as to make joinder impractical; (4) adequate notice can be given to the class; and (5) a class action is superior to individual actions.

3. **Class Representatives and Settlement Class Counsel.** Robert Woodsmall, Mimi Reynolds, Dena Brito, Robert Ricchetti, and Christopher Miller are hereby provisionally designated and appointed as the Class Representatives. The Court provisionally finds that the Class Representatives are similarly situated to absent Settlement Class Members and therefore typical of the Settlement Class and that they will be adequate Class Representatives. The Court further finds that Milberg Coleman Bryson Phillips Grossman, PLLC are experienced and adequate counsel and are hereby provisionally designated as Settlement Class Counsel.

4. **Preliminary Settlement Approval.** The Court hereby preliminarily approves the settlement, as embodied in the Settlement Agreement, as being fair, reasonable and adequate to the Settlement Class, subject to further consideration at the Final Approval Hearing to be conducted as described below. The Court finds that the proposed settlement is within the range of reasonableness and that it is worthwhile to provide notice to the class.

5. **Final Approval Hearing.** A Final Approval Hearing shall be held at 10:00 a.m. on Monday, February 23, 2026 via Webex for the following purposes:

- a. To determine whether the proposed Settlement is fair, reasonable, and adequate to the Class and should be approved by the Court;
- b. To determine whether to enter a Final Approval Order, as defined in the Settlement Agreement;
- c. To determine whether the Notice Plan conducted was appropriate;
- d. To determine whether the claims process under the settlement is fair, reasonable and adequate and should be approved by the Court;
- e. To determine whether the requested Class Representative Service Award in the amount of \$1,250 each, and Class Counsel's Combined Fee Award and Expenses should be approved by the Court;
- f. To determine whether the settlement benefits are fair, reasonable, and adequate; and
- g. To rule upon such other matters as the Court may deem appropriate.

6. **Retention of Claims Administrator and Manner of Giving Notice.** Class Counsel is hereby authorized to retain Kroll (the "Settlement Administrator") to supervise and administer the notice procedure in connection with

the proposed Settlement as well as the processing of Claim Forms as set forth more fully below.

7. **Approval of Form and Content of Notice.** The Court (a) approves, as to form and content, the Long Form Notice, Short Form Notice, and Claim Form attached to the Settlement Agreement as Exhibits A, B, and C, and (b) finds that the Notice provided to Settlement Class Members as set forth in the Settlement Agreement (i) is the best notice practicable under the circumstances; (ii) constitutes notice that is reasonably calculated, under the circumstances, to apprise the Settlement Class Members of the pendency of the Action, of the effect of the proposed Settlement (including the releases to be provided thereunder), of Class Counsel's request for Fee Award and Expenses, of Class Representatives' request for a Service Award, of their right to object to the settlement, of their right to exclude themselves from the Settlement Class, and of their right to appear at the Final Approval Hearing; (iii) constitutes due, adequate and sufficient notice to all persons entitled to receive notice of the proposed Settlement; and (iv) satisfies the requirements of Rule 23 of the North Carolina Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), and all other applicable law and rules. The date and time of the Final Approval Hearing shall be included in the Notice before it is distributed.

8. **Participation in the Settlement.** 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 and must

do so within sixty (60) days after the Notice Deadline. If a Final Approval 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 Approval Order and Judgment.

9. **Claims Process and Distribution and Allocation Plan.** The Settlement Agreement contemplates a process for the Settlement Administrator to assess and determine 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 claims process described in the Settlement Agreement.

10. **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 **60 Days after the Notice Deadline** (the “Opt-Out/Exclusion Deadline”). 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,” a comparable statement that the individual does not wish to participate in the settlement, or some other clear manifestation of the intent to opt-out of the Settlement in the written communication.

Any Settlement Class Member who does not timely and validly exclude himself or herself from the settlement shall be bound by the terms of the Settlement Agreement. If a Final Approval 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 Approval 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.

11. **Objections and Appearances.** 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 mailed to the Settlement Administrator at the address listed in the Notice and postmarked by no later than the Objection/Exclusion Deadline, as specified in the Notice. For an objection to be considered, the objection must also include all of the information set forth in Paragraph 69 of the Settlement Agreement, which is as follows: (i) the name of the proceedings; (ii) the Settlement Class Member's full name, current mailing address, and telephone number; (iii) a statement of the specific grounds for the objection, as well as any documents supporting the objection and a description of whether the objection applies only to the Settlement Class Member, a

subset of the Settlement Class, or the entire Settlement Class; (iv) the identity of any attorneys representing the objector (if any); (v) a statement regarding whether the Settlement Class Member (or his/her attorney) intends to appear at the Final Approval Hearing; (vi) a description and/or copies of evidence that may be introduced at the Final Approval Hearing; (vii) a list of proceedings in which the Settlement Class Member has submitted an objection during the past five years; and (viii) the signature of the Settlement Class Member or the Settlement Class Member's attorney.

12. Any Settlement Class Member who fails to comply with the provisions in Paragraph 69 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 Order, and by all proceedings, orders, and judgments in this matter, including, but not limited to, the release in the Settlement Agreement if a Final Approval Order and Judgment is entered. If a Final Approval 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, the motion for Service Award, or the motion for Fee Award and Expenses.

13. **Termination of Settlement.** This 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 Order, relating to the settlement shall be used or referred to for any purpose whatsoever by the parties.

14. **Use of Order.** This Order shall be of no force or effect if a Final Approval 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 Defendant of any fault, wrongdoing, breach, liability, or the certifiability of any class. Nor shall this Order be construed or used as an admission, concession, or declaration by or against the Settlement 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 litigation or in any other lawsuit.

15. **Stay of Proceedings and Temporary Injunction.** Until otherwise ordered by the Court, the Court stays all proceedings in the Action other than proceedings necessary to carry out or enforce the terms and conditions of the Settlement Agreement. Pending final determination of whether the settlement should be approved, the Court bars and enjoins Plaintiff, and all other members of the Settlement Class, from commencing or prosecuting any and all of the Released Claims against the Released Entities.

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 Order include but are not limited to:

<u>Grant of Preliminary Approval</u>	10 November 2025
Defendant provides list of Settlement Class Members to the Settlement Administrator	17 November 2025
Notice Deadline	10 December 2025
Class Counsel's Motion for Attorneys' Fees, Reimbursement of Litigation Expenses, and Class Representative Service Award	20 January 2026
Objection Deadline	3 February 2026
Exclusion Deadline	3 February 2026
Claims Deadline	3 February 2026
Settlement Administrator Provide List of Objections/Exclusions to the Court	10 February 2026
Motion for Final Approval	10 February 2026
<u>Final Approval Hearing</u>	10:00 a.m. on February 23, 2026 via Webex

SO ORDERED, this the 10th day of November 2025.

/s/ Mark A. Davis
Mark A. Davis
Special Superior Court Judge for
Complex Business Cases