

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

IN RE: 21ST CENTURY ONCOLOGY CUSTOMER DATA SECURITY BREACH LITIGATION	Case No: 8:16-md-2737-MSS-AEP MDL No. 2737
This Document Relates to All Cases	

ORDER FOR FINAL JUDGMENT

WHEREAS, the Parties to the above-described class action (“Action”) entered into a Class Action Settlement Agreement and Release (the “Settlement” or Settlement Agreement”);

WHEREAS, on November 2, 2020, the Court entered an Order Granting Preliminary Approval of Class Action Settlement, which, *inter alia*: (i) preliminarily approved the Settlement; (ii) determined that, for purposes of the Settlement only, the Action should proceed as a class action pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure, on behalf of a class defined as “All persons to whom 21st Century sent notification that their personally identifiable information and/or protected health information may have been disclosed in the Data Breach (as defined in Plaintiffs’ Amended Consolidated Class Action Complaint, ECF No. 191), excluding (1) any judge, justice, or judicial officer presiding over this matter and the members of their immediate families and judicial staff; (2) the Defendants, any entity in which the Defendants have a controlling interest, and the Defendants’ officers,

directors, legal representatives, successors, subsidiaries, and assigns; (3) any individual who timely and validly requests to be excluded from the Settlement Class; and (4) the successors or assigns of any such excluded Persons,” (the “Settlement Class”); (iii) appointed Plaintiffs¹ as Class Representatives; (iv) appointed Cari Campen Laufenberg, of Keller Rohrback L.L.P., and Daniel S. Robinson, of Robinson Calcagnie, Inc., as Class Counsel; (v) approved the forms and manner of notice of the Settlement to members of the Settlement Class (“Settlement Class Members”); (vi) directed that appropriate notice of the Settlement be given to the Settlement Class; and (vii) set a hearing date to consider final approval of the Settlement;

WHEREAS, a notice of the Settlement was provided to Settlement Class Members in accordance with the Court’s Preliminary Approval Order, including by individual mailed Notice to all Class Members;

WHEREAS, a notice of Settlement was mailed to government officials as described in 28 U.S.C. § 1715;

WHEREAS, on June 15, 2021, at 9:30 a.m., at the United States District Court for the Middle District of Florida, United States Courthouse, 801 North Florida Avenue, Courtroom 7A, Tampa, FL 33602, the Honorable Mary S. Scriven held a hearing to determine whether the Settlement was fair, reasonable, and adequate to the Class (“Final Fairness Hearing”); and

¹ Plaintiffs include the Estate of Robert Russell, Valerie Corbel, Roxanne Haatvedt, Veneta Delucchi, Carl Schmitt, Matthew Benzion, Kathleen LaBarge, Stacey Schwartz, Timothy Meulenberg, Stephen Wilbur, Judy Cabrera, Jackie Griffith, Sharon MacDermid, and Steven Brehio.

WHEREAS, based on the foregoing, having considered the papers filed and proceedings held in connection with the Settlement, having considered all of the other files, records, and proceedings in the Action, and being otherwise fully advised,

THE COURT HEREBY FINDS AND CONCLUDES that:

1. This Court has jurisdiction over the subject matter of the Action and over all Parties to the Action, including all Class Members.

2. This Order incorporates the definitions in the Settlement Agreement, and all terms used in the Order have the same meanings as set forth in the Settlement Agreement, unless otherwise defined herein.

3. The Notice given to the Settlement Class in accordance with the Preliminary Approval Order was the best notice practicable under the circumstances of this Action and constituted due and sufficient notice of the proceedings and matters set forth therein, including of the Settlement, to all persons entitled to notice. The notices fully satisfied the requirements of due process, Rule 23 of the Federal Rules of Civil Procedure, and all other applicable law and rules.

4. The notice to government officials, as given, complied with 28 U.S.C. § 1715.

5. The Settlement set forth in the Settlement Agreement (i) is in all respects fair, reasonable, and adequate to the Settlement Class, (ii) was the product of informed, arm's-length negotiations among competent, able counsel, and (iii) was made based upon a record that is sufficiently developed and complete to have enabled the Class Representatives and Defendants to adequately evaluate and consider their positions.

6. The Settlement Benefits described in the Notice to Class Members are fair, reasonable, and adequate.

7. The Class Representatives have fairly and adequately represented the interests of Settlement Class Members in connection with the Settlement.

8. The persons and entities who have timely and validly filed Requests for Exclusion from the Class are identified in Exhibit A attached hereto (“Excluded Persons”).

9. The Class Representatives and the Settlement Class Members, and all and each of them, are hereby bound by the terms of the Settlement set forth in the Settlement Agreement.

NOW, THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED that:

1. The Settlement set forth in the Settlement Agreement is fair, reasonable and adequate to the Settlement Class. Accordingly, the Court authorizes and directs implementation of all terms and provisions of the Settlement Agreement, with the definition of “Claims Deadline” expanded to include all claims received by the Settlement Administrator up to and including June 15, 2021.

2. All Parties to this Action, and all Settlement Class Members, are bound by the Settlement as set forth in the Settlement Agreement and this Order. Excluded Persons identified in Exhibit A are no longer parties to this Action and are not bound by the Settlement Agreement or the Settlement.

3. Judgment shall be, and hereby is, entered dismissing the Action with prejudice, on the merits, and without taxation of costs in favor of or against any Party.

4. The Class Representatives and all Settlement Class Members, including those submitting or not submitting a claim for a Settlement Benefits, and each of their respective spouses, children, heirs, associates, co-owners, attorneys, agents, administrators, executors, devisees, predecessors, successors, assignees, representatives of any kind, shareholders, partners, directors, employees or affiliates (collectively, the “Releasing Parties”), release, acquit, and forever discharge Defendants and 21st Century Oncology Holdings, LLC and their respective predecessors, successors, assigns, parents, subsidiaries, divisions, affiliates, departments, and any and all of their past, present, and future officers, directors, employees, investors, owners, stockholders, partners, servants, agents, successors, attorneys, representatives, insurers (including, but not limited to, Beazley USA, underwritten by Certain Underwriters at Lloyd’s, Syndicates 2623/623, (collectively referred to as “Beazley”) subscribing to policy No W140E2150301, Charter Oak Fire Insurance Company and Travelers Property Casualty Company of America), reinsurers, subrogees, and assigns of any of the foregoing, as well as Plaintiffs and Class Counsel (collectively, “Released Parties”), from any and all claims or causes of action of every kind and description, including any causes of action in law, claims in equity, complaints, suits or petitions, and any allegations of wrongdoing, demands for legal, equitable or administrative relief (including, but not limited to, any claims for injunction, rescission, reformation, restitution, disgorgement, constructive trust, declaratory relief, compensatory damages, consequential damages, penalties, exemplary damages, breach of contract, breach of the duty to settle or indemnify,

breach of the covenant of good faith and fair dealing, punitive damages, attorneys' fees, costs, interest, expenses, or any other claim that in any way whatsoever relates to the Data Breach) that the Releasing Parties had or have (including, but not limited to, assigned claims and any and all "Unknown Claims" as defined below) that have been or could have been asserted in the Action or in any other action or proceeding before any court, arbitrator(s), tribunal or administrative body (including but not limited to any state, local or federal regulatory body), regardless of whether the claims or causes of action are based on federal, state, or local law, statute, ordinance, regulation, contract, common law, or any other source, and regardless of whether they are known or unknown, foreseen or unforeseen, suspected or unsuspected, or fixed or contingent, arising out of, or related or connected in any way with the claims or causes of action of every kind and description that were brought, alleged, argued, raised or asserted in any pleading or court filing in the Action (collectively, the "Released Claims").

5. The Class Representatives and all Settlement Class Members are hereby barred and permanently enjoined from instituting, asserting or prosecuting any or all of the Released Claims against any of the Released Parties.

6. The Settlement Benefits as described in the Notice to Settlement Class Members are hereby approved, subject to modification by further order of this Court, which may, at the discretion of the Court, be entered without further notice to the Settlement Class. Any order or proceedings relating to the Plan of Distribution or amendments thereto shall not operate to terminate or cancel the Settlement Agreement or affect the finality of this Order approving the Settlement.

7. The Court hereby decrees that neither the Settlement nor this Order nor the fact of the Settlement is an admission or concession by Defendants or the Released Parties of any fault, wrongdoing or liability whatsoever, or as an admission of the appropriateness of class certification for trial or dispositive motion practice. This Order is not a finding of the validity or invalidity of any of the claims asserted or defenses raised in the Action. Nothing relating to the Settlement shall be offered or received in evidence as an admission, concession, presumption or inference against Defendants or the Released Parties in any proceeding, other than such proceedings as may be necessary to consummate or enforce the Settlement Agreement or to support a defense based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense.

8. Class Counsel are awarded attorneys' fees in the amount of \$3,443,535.54, and reimbursement of Litigation Costs in the amount of \$306,464.46, such amounts to be paid from out of the Settlement Fund in accordance with the terms of the Settlement. In light of the Eleventh Circuit's decision in *Johnson v. NPAS Sols., LLC*, No. 18-12344, 2020 WL 5553312 (11th Cir. Sept. 17, 2020), the Court defers ruling on the issue of the \$2,500 service award to each of the fourteen (14) Plaintiffs, and retains jurisdiction to decide the matter pending a final decision in *Johnson*. The parties are directed to deposit the \$35,000 into the registry of the Court, pending the Court's determination of the service award issue. The parties are directed to notify the Court no later than fourteen (14) days after a final decision is issued in *Johnson*. In the

event the Eleventh Circuit denies the petition for rehearing en banc in *Johnson*, the \$35,000 shall be added to the Net Settlement Fund and distributed in accordance with the Settlement. In the event the Eleventh Circuit grants the petition for rehearing en banc in *Johnson*, the Court will decide Plaintiffs' request for service awards at that time. If the Eleventh Circuit has not ruled on the petition for rehearing en banc in *Johnson* ninety (90) days prior to the expiration of the Credit Monitoring and Insurance Services, Plaintiffs shall notify the Court and may modify or withdraw their request for service awards at that time, consistent with the terms of the Settlement Agreement.

9. The Court hereby retains and reserves jurisdiction over: (a) implementation of this Settlement and any distributions from the Settlement Fund; (b) the Action, until the Effective Date and until each and every act agreed to be performed by the Parties shall have been performed pursuant to the terms and conditions of the Settlement Agreement, including the exhibits appended thereto; and (c) all Parties, for the purpose of enforcing and administering the Settlement Agreement and the Settlement.

10. There being no just reason for delay, the Clerk of Court is hereby directed to enter final judgment forthwith pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

11. In the event that the Judgment does not become final in accordance with ¶ IV.J. of the Settlement Agreement, then the final Judgment shall be rendered null and void to the extent provided by and in accordance with the Settlement Agreement, and this Order shall be vacated. In such event, all orders entered and releases delivered

in connection with the Settlement shall be null and void. In such event, the Action shall return to its status immediately prior to execution of the Settlement Agreement.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Entered this 25th day of June 2021.



MARY S. SCRIVEN
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel of Record
Any pro se party