



AlaFile E-Notice

01-CV-2024-902563.00

Judge: MONICA Y. AGEE

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NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

JEREMY HUFSTETLER ET AL V. UPSTREAM REHABILITATION, INC. ET AL
01-CV-2024-902563.00

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**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
BIRMINGHAM DIVISION**

| | | |
|--------------------------------|---|---------------------------------|
| HUFSTETLER JEREMY, |) | |
| RUNK ADAM, |) | |
| HATFIELD CONNIE, |) | |
| JHALA YASHVANTSINH ET AL, |) | |
| Plaintiffs, |) | |
| |) | |
| V. |) | Case No.: CV-2024-902563.00-MYA |
| |) | |
| UPSTREAM REHABILITATION, INC., |) | |
| UPSTREAM ROLLCO, LLC, |) | |
| Defendants. |) | |

FINAL APPROVAL ORDER

This matter coming before the Court on Plaintiffs' Unopposed Motion for Final Approval of Class Action Settlement (the "Motion"). The Court, having considered the Motion, the supporting memorandum of law, the parties' Settlement Agreement (the "Agreement"), the pleadings and other papers filed in this Action, and the statements of counsel and the parties, has determined that the proposed Settlement satisfies the criteria for final approval and the proposed Settlement Class is certified for settlement purposes only. Accordingly, good cause appearing in the record, Plaintiffs' Motion is **GRANTED** as follows:

1. Unless defined herein, all defined terms in this order shall have the respective meanings ascribed to the same terms in the Agreement.

2. The Court has conducted a final evaluation of the Settlement set forth in the Agreement. Based on this evaluation, the Court finds that the Agreement meets all applicable requirements of Alabama Rule of Civil Procedure 23 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 Class Representatives fairly and adequately protect the interests of the Settlement 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 is in the best interests of the Settlement Class Members. Therefore, the Court grants final approval of the Settlement.

Provisional Certification of the Settlement Class

4. Pursuant to Alabama Rule of Civil Procedure 23, and for settlement purposes only, the Court certifies the following Settlement Class:

all individuals within the United States of America whose PHI/PII was exposed to unauthorized third parties as a result of Defendants' data breach that occurred between January 24, 2023 and January 31, 2023, and between February 3, 2023 and February 9, 2023.

Excluded from the Settlement Class are the Court, the officers and directors of Defendants, persons who have been separately represented by an attorney and entered into a separate settlement agreement in connection with the Data Security Incident, and persons who timely and validly request exclusion from the Settlement Class.

5. The Court finds and concludes for settlement purposes only that the prerequisites to a class action, set forth in Alabama Rule of Civil Procedure 23, are satisfied in that:

- A. the Settlement Class is so numerous that joinder of all members is impracticable;
- B. there are questions of law or fact common to the Settlement Class;
- C. Plaintiffs and Class Counsel fairly and adequately represent the Settlement Class;
- D. the claims of Plaintiffs are typical of those of Settlement Class Members;
- E. common issues predominate over any individual issues affecting the members of the Settlement Class;
- F. Plaintiffs fairly and adequately protect and represent the interests of all members of the Settlement Class, and Plaintiffs' interests are aligned with the interests of all other members of the Settlement Class; and
- G. settlement on a class action basis is superior to other means of resolving this matter.

6. For settlement purposes only, the Court hereby approves the appointment of Plaintiffs Jeremy Hufstetler, Adam Runk, Connie Hatfield, Yashvantsinh Jhala, Dale Stark, Lisa Kenny, A'Tavion Morrisette, Gene Sawyer, Robert Moffa, Leah Harner, and Judy Young as Class Representatives.

7. For settlement purposes only, the Court hereby approves the appointment of AB Data 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.

8. For settlement purposes only, the Court hereby approves the appointment of PITTMAN, DUTTON, HELLUMS, BRADLEY, & MANN, P.C., CORY WATSON, P.C., MIGLIACCIO & RATHOD LLP, SROURIAN LAW FIRM, P.C., SIRI & GLIMSTAD LLP, HENINGER GARRISON DAVIS, LLC, DEGARIS LAW, LLC, and MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN PLLC as Class Counsel and finds that they are competent and capable of exercising the responsibilities of Settlement Class Counsel.

9. The Court further finds that the Settlement Agreement substantially fulfills the purposes and objectives of the class action and provides beneficial relief to the Settlement Class. The Court also finds that the Settlement Agreement: (a) is the result of serious, informed, non-collusive arms' length negotiations involving experienced counsel familiar with the legal and factual issues of this case and made with the assistance of a mediator; (b) meets all applicable requirements of law, including Alabama Rule of Civil Procedure 23; and (c) is not a finding or admission of liability by Defendant.

Notice

10. Notice of the Final Approval Hearing, the proposed attorneys' fees, costs, and expenses, and the proposed Service Award payment to Class Representatives have been provided to Settlement Class Members as directed by this Court. An affidavit or declaration of the Settlement Administrator's compliance with the notice program has been filed with the Court.

11. The Court finds that such Notice constituted the best possible notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Settlement Class Members in compliance with the requirements of Alabama Rule of Civil Procedure 23.

Exclusions and Objections

12. The six persons listed and identified below, and incorporated by this reference, submitted timely and proper requests for exclusion, are excluded from the Settlement Class, and are not bound by the terms of the Settlement Agreement or this Final Approval Order.

| <p style="text-align: center;"><i>Jeremy Hufstetler, et al. v. Upstream Rehabilitation, Inc., et al.</i> <i>Case No. 01-CV-2024-902563.00</i> <u>Requests for Exclusion</u></p> | | | |
|--|-----------------|-----------|------------------|
| # | Name | Notice ID | Exclusion Number |
| 1. | Tara Ostlind | 685010013 | 735267010 |
| 2. | Tyrel Trainor | 684938112 | 735267011 |
| 3. | Melodie Morgan | 685036169 | 735267012 |
| 4. | Alfred Arnhold | 684821673 | 735267013 |
| 5. | Shirley S Lough | 684881246 | 735267014 |
| 6. | Judy Frisbie | 684738532 | 735267015 |

13. Plaintiffs and Settlement Class Members who did not validly and timely request exclusion from the Settlement are permanently barred and enjoined from asserting, commencing, prosecuting, or continuing any of the Released Claims or any of the claims described in the Settlement Agreement against the Released Parties.

14. Any member of the Settlement Class who failed to file and serve a timely written objection in compliance with the requirements of this Order and the Settlement Agreement shall be deemed to have waived any objections and shall be foreclosed from making any objections (whether by appeal or otherwise) to the Settlement.

Award of Attorneys' Fees, Costs, and Expenses and Plaintiffs' Service Awards

15. The Court has considered Plaintiffs' Motion and Memorandum for Approval of Attorneys' Fees, Expenses, and Service Awards.

16. The Court awards Class Counsel one third of the Settlement Fund, \$1,434,966.17,

as an award of attorneys' fees and \$10,598.48 in costs and expenses to be paid in accordance with the Settlement, and the Court finds this amount of fees, costs, and expenses to be fair and reasonable. This award of attorneys' fees, costs, and expenses, and any interest earned thereon, shall be paid by the Defendant, separate and apart from any benefits provided to Settlement Class Members and the costs of notice and Settlement Administration. This award of attorneys' fees, costs, and expenses is independent of the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement.

17. The Court awards \$2,500 to each Class Representative, for a total of \$27,500, in recognition of their efforts on behalf of the Settlement Class.

18. The Court orders payment of Settlement Administration costs and expenses to AB Data, Ltd. for performance of its settlement notice and claims administration services.

19. Defendant shall pay the attorneys' fees, costs, and expenses to the Settlement Administrator within thirty (30) days of the Effective Date.

Final Approval

20. The Court has considered all the documents filed in support of the Settlement, and has fully considered all matters raised, all exhibits and affidavits filed, all evidence received at the Final Approval Hearing, all other papers and documents comprising the record herein, and all oral arguments presented to the Court.

21. Pursuant to the Settlement Agreement, Plaintiffs and the Settlement Class Members release claims against Defendant and all Released Parties, as defined in the Settlement Agreement.

22. On the Effective Date as provided for under the Settlement Agreement, (i) Plaintiffs and each Settlement Class Member (collectively and individually, the "Releasing Parties"), and (ii) Settlement Class Counsel will be deemed to have, and by operation of the Final Order and Judgment shall have, fully, finally, completely, and forever released and discharged the Released Parties from the Released Claims.

23. The Parties, their respective attorneys, and the Settlement Administrator are hereby directed to consummate the Settlement in accordance with this Order and the terms of the Settlement Agreement.

24. The matter is hereby dismissed with prejudice and without costs except that the

Court reserves jurisdiction over the consummation and enforcement of the Settlement.

In accordance with Alabama Rule of Civil Procedure 23, this Final Order and Judgment resolves all claims against all Parties in this Action and is a final order. There is no just reason to delay the entry of final judgment in this matter, and the Clerk is directed to file this Order as the final judgment in this matter.

DONE and ORDERED on this the 24th day of February, 2025.

/s/ MONICA Y. AGEE
CIRCUIT JUDGE