

CLIFF LEE, DANIEL FLADING, and
CAROLYN TOEPFER, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

TEXAS EAR, NOSE & THROAT
SPECIALISTS, PLLC

Defendant.

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

113 JUDICIAL DISTRICT

**DECLARATION OF KEVIN E. JAMES REGARDING
NOTICE AND SETTLEMENT ADMINISTRATION**

I, Kevin E. James, hereby declare and state as follows:

1. I am a Project Manager employed by Epiq Class Action & Claims Solutions, Inc. (“Epiq”), the Claims Administrator in the above captioned case. Prior to joining Epiq in 2017, I received my Bachelor of Arts from Colby College, and my Juris Doctor from Lewis & Clark Law School. I have been one of the persons at Epiq in charge of the day-to-day administration of the Settlement. The statements of fact in this declaration are based on my personal knowledge and information provided to me by my colleagues in the ordinary course of business, and if called on to do so, I could and would testify competently thereto.

2. Epiq was retained by the Parties to be the Claims Administrator pursuant to the Court’s *Order Granting Preliminary Approval of Class Action Settlement* (the “Order”) dated June 9, 2023, and in accordance with the Settlement Agreement dated March 31, 2023 (the “Agreement”)¹. I submit this Declaration in order to advise the Parties and the Court regarding the

¹ All capitalized terms not otherwise defined in this document shall have the same meanings ascribed to them in the Agreement.

implementation of the Court-approved Class notice program, and to report on Epiq's handling to date of the Claims administration, in accordance with the Order and the Agreement.

3. Epiq was established in 1968 as a client services and data processing company. Epiq has administered bankruptcies since 1985 and settlements since 1993. Epiq has routinely developed and executed notice programs and administrations in a wide variety of mass action contexts including settlements of consumer, antitrust, products liability, and labor and employment class actions, settlements of mass tort litigation, Securities and Exchange Commission enforcement actions, Federal Trade Commission disgorgement actions, insurance disputes, bankruptcies, and other major litigation. Epiq has administered more than 4,500 settlements, including some of the largest and most complex cases ever settled. Epiq's class action case administration services include administering notice requirements, designing direct-mail notices, implementing notice fulfillment services, coordinating with the United States Postal Service ("USPS"), developing and maintaining notice websites and dedicated telephone numbers with recorded information and/or live operators, processing exclusion requests, objections, claim forms and correspondence, maintaining class member databases, adjudicating claims, managing settlement funds, and calculating claim payments and distributions. As an experienced neutral third-party administrator working with settling parties, courts, and mass action participants, Epiq has handled hundreds of millions of notices, disseminated hundreds of millions of emails, handled millions of phone calls, processed tens of millions of claims, and distributed hundreds of billions in payments.

OVERVIEW OF ADMINISTRATION

4. Pursuant to the Order and the Agreement, Epiq was retained to provide, and did provide, the following administrative services for the benefit of Settlement Class Members, as they are defined in the Settlement:

- Mail a Short Notice in the form of a postcard to Settlement Class Members;
- Re-mail undeliverable Short Notices to any forwarding address;
- Perform a standard skip trace for any undeliverable Short Notices where a forwarding address is not available, and re-mail Short Notices to any updated address;
- On request, mail a Long Notice and Claim Form (a “Claim Package”) to Settlement Class Members;
- Establish and maintain an official Settlement Website (“Website”) containing information about the proposed Settlement, including the Short Notice, Long Notice, Claim Form², the operative Class Action Petition, Settlement Agreement, Preliminary Approval Order, and other documents as they become available or are provided by the Settling Parties or by order of the Court;
- Establish and maintain an online claim filing system on the Website, allowing claims and supporting documentation to be submitted electronically³;
- Establish and maintain an official toll-free number that Settlement Class Members may contact for additional information about the Settlement;
- Review and process requests for exclusion sent to or received by Epiq;
- Review and track objections sent to or received by Epiq;

² The Claim Form was removed from the Website at the conclusion of the claim filing period.

³ The online claim filing system was deactivated at the conclusion of the claim filing period.

- Receive, process, track, and report on Claim Forms sent to or received by Epiq; and
- As appropriate, mail deficiency and/or rejection letters, and track responses thereto.

DATA TRANSFER

5. On June 13, 2023, Defendants provided Epiq with one electronic file data containing potential Settlement Class Member records. The file contained 553,454 records containing names and physical addresses for potential Settlement Class Members (the “Class Data”).

6. Epiq loaded the information provided by Defendants into a database created for the purpose of administration of the proposed Settlement. Epiq assigned unique identifiers to all the records it received in order to maintain the ability to track them throughout the Settlement administration process. Epiq combined the data and rolled-up the records where names and addresses were an exact match, which resulted in 548,553 Settlement Class Member records (the “Class List”).

DISSEMINATION OF INDIVIDUAL CLASS NOTICE BY POSTAL MAIL

7. Pursuant to section IV(3.2(d)) of the Agreement and section 8 of the Order, Epiq was responsible for sending the Short Notice, and if requested, the Long Notice and Claim Form, to all potential Settlement Class Members via U.S. First Class Mail. Attached hereto as **Exhibit 1** are the Short Notice and Long Notice, including Claim Form, that Epiq disseminated by mail (the “Postcard Notice” and “Claim Package”).

8. Prior to mailing the Postcard Notice to the Class List, all mailing addresses were checked against the National Change of Address (“NCOA”) database maintained by the United States Postal Service (“USPS”).⁴ In addition, the addresses were processed via the Coding

⁴ The NCOA database contains records of all permanent change of address submissions received by the USPS for the last four years. The USPS makes this data available to mailing firms and lists submitted to it are automatically updated with any reported

Accuracy Support System (“CASS”) to ensure the quality of the zip code, and verified through Delivery Point Validation (“DPV”) to verify the accuracy of the addresses. To the extent that any Settlement Class Member had filed a USPS change of address request, and the address was certified and verified, the current address listed in the NCOA database was used in connection with the Notice mailing. This address updating process is standard for the industry and for the majority of promotional mailings that occur today. A total of 37,493 records in the Class Data sent through the USPS NCOA, CASS, and DPV process were updated with new addresses.

9. Prior to commencing any mailings for this matter, Epiq established a dedicated post office box to mail notice from and to allow Settlement Class Members to contact the Claims Administrator or submit documents by mail. Epiq has and will continue to maintain the post office box throughout the administration process.

10. On July 24, 2023, Epiq mailed 548,537 Postcard Notices via First Class U.S. Mail to potential Settlement Class Members on the Class List with a valid mailing address. In addition, a Claim Package has been mailed via First Class U.S. Mail to all persons who requested to be mailed a Long Notice or Claim Form. As of November 20, 2023, 222 Claim Packages have been mailed as a result of such requests.

11. The return address on the Postcard Notices is the post office box maintained by Epiq. As of November 20, 2023, 514 Postcard Notices have been returned by the USPS with forwarding information and were promptly re-mailed by Epiq to the forwarding address.

12. As of November 20, 2023, a total of 91,305 Notices have been returned to Epiq without forwarding address information. As a result of skip trace searches performed by Epiq using

move based on a comparison with the person’s name and last known address.

a third-party lookup service, a total of 52,233 Postcard Notices were re-mailed to updated addresses.

13. As of November 20, 2023, a Postcard Notice did not return to Epiq as undeliverable for 509,465 of the 548,553 unique, identified Settlement Class Members. This ultimately means notices were not undeliverable for approximately 92.8% of the identified members of the Settlement Class.

SETTLEMENT WEBSITE

14. Pursuant to Section IV(3.2(c)) of the Settlement Agreement, on July 21, 2023, Epiq launched a website, www.TXENTSettlement.com, that potential Settlement Class Members could visit to obtain additional information about the proposed Settlement and view important documents, including the Postcard Notice, Long Notice, Claim Form, Complaint, Settlement Agreement, and Preliminary Approval Order. The Website contains a summary of options available to Settlement Class Members, deadlines to act, and provides answers to frequently asked questions. Settlement Class Members were also able to file a claim via the Website and/or download a paper Claim Form. References to the Website were prominently displayed in the Postcard Notice and Claim Package.

15. As of November 20, 2023, the Website has received 44,920 page hits in 13,554 user sessions.

TOLL-FREE INFORMATION LINE

16. Pursuant to Section IV(3.2(f)) of the Settlement Agreement, on July 21, 2023, Epiq established and is maintaining a toll-free interactive Voice Response Unit (“VRU”), +1 877-685-2830, to provide information and accommodate inquiries from Settlement Class Members. Callers hear an introductory message and are then provided with scripted information about the Settlement

in the form of recorded answers to frequently asked questions. Callers also have the option of requesting a Claim Package by mail, leaving a voicemail for a call center representative to call them back, or speaking to a live operator during normal business hours. The toll-free number was included in the Postcard Notice sent to Settlement Class Members and the automated telephone system is available 24 hours per day, 7 days per week.

17. As of November 20, 2023, the toll-free number has received 2,733 calls representing 17,662 total minutes of use and call center representatives have handled 667 inbound calls representing 6,902 minutes of use and 105 outbound calls representing 290 minutes of use. Epiq has and will continue to maintain and update the VRU throughout the Settlement administration process.

EMAIL INBOX

18. Epiq established and maintains an email inbox, info@TXENTSettlement.com, for Settlement Class Members to submit requests for Notices and ask questions regarding the Settlement. As of November 20, 2023, Epiq has received and responded to or processed a total of 227 incoming emails. Epiq will continue to maintain this inbox throughout the Settlement administration.

REQUESTS FOR EXCLUSION

19. Pursuant to Section 9 of the Order, Settlement Class Members who wished to be excluded from the Settlement were required to mail a written request for exclusion to Epiq, postmarked or received on or before October 23, 2023. As of November 20, 2023, Epiq has received 21 timely requests for exclusion, of which 19 are potentially valid requests under the terms of the Agreement (two requestors requested exclusion for Settlement Class Members other than themselves, and failed to respond to a written request for proof of their authority to do so). A

report listing the 19 timely and potentially valid requests received to date is attached hereto as **Exhibit 2.**

OBJECTIONS RECEIVED

20. Pursuant to Section 10 of the Order, Settlement Class Members who wished to object to the Settlement were required to submit written objections to the Clerk of the Court, Counsel for Defendants, Class Counsel, and Epiq, such that they were postmarked or received on or before the objection deadline of October 23, 2023. As of November 20, 2023, Epiq is aware of or has received no written objections to the Settlement.

CLAIMS RECEIVED

21. Pursuant to section IV(2.1.4) of the Agreement and section 11 of the Order, Settlement Class Members who wished to make a claim were required to submit a completed Claim Form to the Settlement Administrator online and/or via U.S. Mail, so that it was received and/or postmarked no later than October 23, 2023. As of November 20, 2023, Epiq has received 4,134 claims (including 3,950 online claims submitted via the Website, and 184 paper claims submitted via postal mail).⁵

I declare under penalty of perjury under the laws of the State of Texas that the foregoing is true and correct. Executed in Multnomah County, State of Oregon, on the 21st day of November, 2023.



Kevin E. James
Project Manager
Epiq Class Action & Claims Solutions, Inc.

⁵ As Epiq is still receiving, reviewing, and processing timely and late claims, the claims information provided herein is subject to further analysis for eligibility and quality control, and is, therefore, preliminary at this time.

Exhibit 1

Texas ENT Claims Administrator
P.O. Box 2440
Portland, OR 97208-2440

**BARCODE NO
PRINT ZONE**

FIRST-CLASS MAIL
U.S. POSTAGE
PAID
Portland, OR
PERMIT NO. 2882

Unique ID: <<UniqueID>>
PIN: <<PIN>>

A proposed Settlement has been reached in a class action lawsuit known as *Lee et al. v. Texas Ear, Nose & Throat Specialists, PLLC*, Case No. 2021-84322 (“Lawsuit”), filed in the 113th Judicial District Court for Harris County, Texas.

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What is this about? This Lawsuit arises out of unauthorized access to Texas ENT's systems and certain files containing sensitive information about Texas ENT's current and former patients and employees, but not limited to, names, dates of birth, medical record number, procedure codes, Social Security Numbers, and other types of personally identifiable information (collectively "Personal Information"), and which occurred between August 9, 2021, and August 15, 2021 (the "Data Incident"). Texas ENT disagrees with Plaintiffs' claims and denies any wrongdoing.

Who is a Settlement Class Member? You are a Settlement Class Member if you reside in the United States and were mailed written notification by Texas ENT that your Personal Information was or may have been compromised in the Data Incident.

What are the benefits? The Settlement provides the following benefits:

- **Documented Out-of-pocket Expense Reimbursement:** Up to \$300 for documented out-of-pocket expenses, including lost time.

- **Lost Time Reimbursement:** Reimbursement for up to three (3) hours of lost time spent dealing with the Data Incident (\$20 per hour).

- **Documented Extraordinary Loss Reimbursement:** Reimbursement for extraordinary losses, not to exceed \$3,000 per Settlement Class Member for documented monetary losses.

- **Credit Monitoring:** (1) Settlement Class Members whose Social Security Numbers were involved in the Data Incident can elect to enroll in two years of three-bureau credit monitoring; (2) Settlement Class Members who did NOT have Social Security Numbers involved in this Incident can elect to enroll in two years of Identity Force Rapid Response ID.

- **Information Security Improvements:** Texas ENT will also provide various security improvements.

You must file a claim by **October 23, 2023** by mail or online at www.TXENTSettlement.com to receive benefits from the Settlement.

What are my other rights?

- **Do Nothing:** If you do nothing, you remain in the Settlement. You give up your rights to sue but you will not get any money; you must submit a claim to get any money.

- **Exclude yourself:** You can get out of the Settlement and keep your right to sue about the claims in this Lawsuit, but you will not get any money from the Settlement. You must exclude yourself by **October 23, 2023**.

- **Object:** You can stay in the Settlement but tell the Court why you think the Settlement should not be approved. Objections must be submitted by **October 23, 2023**. Detailed instructions on how to file a claim, get additional credit monitoring, exclude yourself, or object are on the Settlement Website www.TXENTSettlement.com. The Court will hold the Final Fairness Hearing on **December 5, 2023 at 1:30 p.m.** to consider whether the proposed Settlement is fair, reasonable, and adequate, to consider Attorneys' Fees and Expenses of \$195,000 and request a Class Representative service award of \$1,500 to each named Plaintiff, and to consider whether and if it should be approved. You may attend the hearing, but you don't have to. This is only a summary. For additional information, including a copy of the Settlement Agreement, Class Counsel's Application for Attorneys' Fees and Expenses, and other documents, visit www.TXENTSettlement.com or call **1-877-685-2830**.

THIS IS NOT A CLAIM FORM.

PERSONAL INFORMATION UPDATE FORM

If you wish to notify the Claims Administrator of any change in your contact information, you may fill out and return this card.

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PLACE
STAMP
HERE

TEXAS ENT CLAIMS ADMINISTRATOR
PO BOX 2440
PORTLAND OR 97208-2440



NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT

If Texas Ear, Nose & Throat Specialists, PLLC (“Texas ENT”) Notified You of a Data Incident, You May be Eligible For Benefits From a Class Action Settlement.

This is not a solicitation from a lawyer, junk mail, or an advertisement. A court authorized this Notice.

- A proposed Settlement has been reached in a class action lawsuit known as *Lee et al. v. Texas Ear, Nose & Throat Specialists, PLLC*, Case No. 2021-84322 (“Lawsuit”), filed in the 113th Judicial District Court for Harris County, Texas.
- This Lawsuit arises out of unauthorized access to Texas ENT’s systems and certain files containing sensitive information about Texas ENT’s current and former patients and employees, including, but not limited to, names, dates of birth, medical record number, procedure codes, Social Security Numbers, and other types of personally identifiable information (collectively “Personal Information”), and which occurred between August 9, 2021, and August 15, 2021 (the “Data Incident”). Texas ENT disagrees with Plaintiffs’ claims and denies any wrongdoing.
- All Settlement Class Members can receive the following benefits from the Settlement: (1) up to \$300 for documented out-of-pocket expenses, (2) reimbursement for up to three hours of lost time spent dealing with the Data Incident (\$20 per hour), (3) reimbursement for extraordinary losses up to \$3,000 for documented expenses, and (4) credit/identity monitoring services described below. Texas ENT also agrees to provide various security related improvements.
- Settlement Class Members whose Social Security Numbers were involved in the Data Incident can elect to enroll in two years of three-bureau credit monitoring. Settlement Class Members who did NOT have Social Security Numbers involved in this Incident can elect to enroll in two years of Identity Force Rapid Response ID (or a similar product).
- You are included in this Settlement as a Settlement Class Member if you reside in the United States and were mailed written notification by Texas ENT that your Personal Information was or may have been compromised in the Data Incident.
- Your legal rights are affected regardless of whether you do or do not act. Read this Notice carefully.

| YOUR LEGAL RIGHTS & OPTIONS IN THIS SETTLEMENT | |
|---|---|
| Submit a Claim | You must submit a Valid Claim to get money from this Settlement or to request Credit Monitoring. Claim Forms must be submitted online by October 23, 2023 or, if mailed, postmarked no later than October 23, 2023 . |
| Do Nothing | If you do nothing, you remain in the Settlement. You give up your rights to sue, and you will not get any money or credit monitoring. |
| Exclude Yourself | Get out of the Settlement. Get no money. Keep your rights. This is the only option that allows you to keep your right to sue about the claims in this lawsuit. You will not get any money from the Settlement. Your request to exclude yourself must be postmarked no later than October 23, 2023 . |
| File an Objection | Stay in the Settlement but tell the Court why you think the Settlement should not be approved. Objections must be postmarked no later than October 23, 2023 . |
| Go to a Hearing | You can ask to speak in Court about the fairness of the Settlement at your own expense. <i>See</i> Question 18 for more details. The Final Fairness Hearing is scheduled for December 5, 2023 at 1:30 p.m. |

WHAT THIS NOTICE CONTAINS

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3. Why is there a Settlement?
4. Why is this a class action?
5. How do I know if I am included in the Settlement?

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7. How do I submit a Claim?
8. What am I giving up as part of the Settlement?
9. Will the Class Representative receive compensation?

EXCLUDE YOURSELFPAGE 5

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11. If I do not exclude myself, can I sue later?
12. What happens if I do nothing at all?

THE LAWYERS REPRESENTING YOU.....PAGES 5-6

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14. How will the lawyers be paid?

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18. Do I have to come to the hearing?
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DO NOTHINGPAGE 7

20. What happens if I do nothing?

GET MORE INFORMATION.....PAGE 7

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

BASIC INFORMATION

1. How do I know if I am affected by the Lawsuit and Settlement?

You are a Settlement Class Member if you reside in the United States and were mailed written notification by Texas ENT that your Personal Information was or may have been compromised in the Data Incident, which occurred between August 9, 2021, and August 15, 2021. Settlement Class Members should have also received a postcard notice of the Settlement that includes their Class Member ID Number.

The Settlement Class specifically excludes: (i) Texas Ear, Nose & Throat Specialists (“Texas ENT”), the Related Entities, and their officers and directors; (ii) all Settlement Class Members who timely and validly request exclusion from the Settlement Class; (iii) any judges assigned to this case and their staff and family; and (iv) any other Person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity occurrence of the Data Incident or who pleads *nolo contendere* to any such charge. This Notice explains the nature of the lawsuit and claims being settled, your legal rights, and the benefits to the Settlement Class.

2. What is this case about?

This case is known as *Lee et al. v. Texas Ear, Nose & Throat Specialists, PLLC*, Case No. 2021-84322 filed in the 113th Judicial District Court for Harris County, Texas. The people who sued are called the “Plaintiffs” and the company they sued, Texas ENT, is known as the “Defendant” in this case. Texas ENT will be called “Defendant” in this Notice.

Plaintiffs filed a lawsuit against Defendant, individually and on behalf of anyone whose personally identifiable information (“PII”) or personal health information (“PHI”) was potentially impacted as a result of the Data Incident.

This Lawsuit arises out of unauthorized access to Texas ENT’s systems and certain files containing sensitive information about Texas ENT’s current and former patients and employees, including, but not limited to, names, dates of birth, medical record number, procedure codes, Social Security Numbers, and other types of personally identifiable information (collectively “Personal Information”), and which occurred between August 9, 2021, and August 15, 2021 (the “Data Incident”). Texas ENT disagrees with Plaintiffs’ claims and denies any wrongdoing. After learning of the Data Incident, notification was mailed to persons whose Personal Information may have been impacted by the Data Incident. Subsequently, this lawsuit was filed asserting claims against Texas ENT relating to the Data Incident.

3. Why is there a Settlement?

By agreeing to settle, both sides avoid the cost, disruption, and distraction of further litigation. The Class Representatives, Defendant, and their attorneys believe the proposed Settlement is fair, reasonable, and adequate and, thus, best for the Settlement Class Members. The Court did not decide in favor of the Plaintiffs or Defendant. Full details about the proposed Settlement are found in the Settlement Agreement available at www.TXENTSettlement.com.

4. Why is this a class action?

In a class action, one or more people called a “Class Representative” sue on behalf of all people who have similar claims. All of these people together are the “Settlement Class” or “Settlement Class Members.” Here, Plaintiffs and Class Representatives Cliff Lee, Daniel Flading, and Carolyn Toepfer have sued on behalf of themselves and all Settlement Class Members.

5. How do I know if I am included in the Settlement?

You are included in the Settlement if you reside in the United States and were mailed written notification by Texas ENT that your Personal Information was or may have been compromised in the Data Incident which occurred between August 9, 2021, and August 15, 2021. If you are not sure whether you are included as a Settlement Class Member, or have any other questions about the Settlement, visit www.TXENTSettlement.com, call toll-free 1-877-685-2830, or write to Texas ENT Claims Administrator, P.O. Box 2440, Portland, OR 97208-2440.

THE SETTLEMENT BENEFITS

6. What does this Settlement provide?

The proposed Settlement will provide the following benefits to Settlement Class Members:

Expense Reimbursement

Documented Out-of-Pocket Expense Reimbursement (Ordinary Losses): All Settlement Class Members who submit a Valid Claim using the Claim Form are eligible for the following documented out-of-pocket expenses, not to exceed \$300 per Settlement Class Member, that were incurred as a result of the Data Incident: (i) long-distance phone charges; (ii) cell phone charges (only if charged by the minute); (iii) internet usage charges (if either charged by the minute or incurred solely as a result of the Data Incident); (iv) costs of credit reports purchased between August 9, 2021, and October 23, 2023; and (v) documented costs associated with credit monitoring services and/or fraud resolution services purchased between August 9, 2021, and October 23, 2023, with a statement that the monitoring or service was purchased primarily because of the Data Incident and not for other purposes. To receive reimbursement for any of the above-referenced out-of-pocket expenses, Settlement Class Members must submit a valid and timely claim, including necessary supporting documentation, to the Claims Administrator.

Lost Time Reimbursement: Settlement Class Members are also eligible to receive reimbursement for up to three (3) hours of lost time spent dealing with the Data Incident (calculated at the rate of \$20 per hour), but only if at least one (1) full hour was spent. Settlement Class Members may receive reimbursement for lost time if the Settlement Class Member (i) attests that any claimed lost time was spent responding to issues raised by the Data Incident; and (ii) provides a check-box style description, or written description if no checkbox is applicable, of how the claimed lost time was spent related to the Data Incident. Claims made for lost time can be combined with reimbursement for out-of-pocket expenses and are subject to the same \$300 cap for all Settlement Class Members.

Documented Extraordinary Loss Reimbursement: Settlement Class Members are also eligible to receive reimbursement for extraordinary losses, not to exceed \$3,000 per Settlement Class Member for documented monetary loss that: (i) is actual, documented, and unreimbursed; (ii) was more likely than not caused by the Data Incident; (iii) occurred between August 9, 2021, and October 23, 2023; and (iv) is not already covered by any of the above-referenced documented out-of-pocket expenses or lost time reimbursement categories. Settlement Class Members must also provide documentation that he or she made reasonable efforts to avoid, or seek reimbursement for, the loss, including but not limited to exhaustion of all available credit monitoring insurance and identity theft insurance.

Credit Monitoring: Settlement Class Members whose Social Security Numbers were involved in the Data Incident can elect to enroll in two years of three-bureau credit monitoring services. For the remaining Settlement Class Members who did NOT have Social Security Numbers involved in the Data Incident, those class members can elect to enroll in two years of Identity Force Rapid Response ID. Settlement Class Members who wish to claim credit monitoring must do so by the Claims Deadline on **October 23, 2023**, by selecting the applicable credit monitoring option on the Claim Form.

Information Security Improvements: Texas ENT will implement and keep in place various security-related improvements for a period of one year. Costs associated with these security improvements will be paid by Texas ENT separate and apart from other settlement benefits.

7. How do I submit a claim?

All claims will be reviewed by the Claims Administrator and/or a claims referee. You must file a Claim Form to get any money from the proposed Settlement. Claim Forms must be **submitted online by October 23, 2023**, or **postmarked no later than October 23, 2023**. You can download a Claim Form at www.TXENTSettlement.com or you can call the Claims Administrator at 1-877-685-2830.

8. What am I giving up as part of the Settlement?

If you stay in the Settlement Class, you will be eligible to receive benefits, but you will not be able to sue Texas ENT and its Related Entities and each of their past or present parents, subsidiaries, divisions, and related or affiliated entities, and each of their respective predecessors, successors, directors, officers, principals, agents, attorneys, insurers, and reinsurers regarding the claims in this case. The Settlement Agreement, which includes all provisions about settled claims, releases, and Released Persons, is available at www.TXENTSettlement.com.

The only way to keep the right to sue is to exclude yourself (*see* Question 10), otherwise you will be included in the Settlement Class, if the Settlement is approved, and you give up the right to sue for the claims in this case.

9. Will the Class Representative receive compensation?

Yes. The Class Representatives will each request a service award of up to \$1,500 to compensate them for their services and efforts in bringing the lawsuit. The Court will make the final decision as to the amount, if any, to be paid to the Class Representatives.

EXCLUDE YOURSELF

10. How do I exclude myself from the Settlement?

If you do not want to be included in the Settlement, you must send a timely written request for exclusion. Your request for exclusion must be individually signed by you. Your request must clearly state your intent to be excluded from the Settlement.

Your written request for exclusion must be **postmarked no later than October 23, 2023**, and mailed to the following address:

Texas ENT Claims Administrator
P.O. Box 2440
Portland, OR 97208-2440

Instructions on how to submit a request for exclusion are available at www.TXENTSettlement.com or from the Claims Administrator by calling 1-877-685-2830.

If you exclude yourself, you will not be able to receive any cash benefits from the Settlement and you cannot object to the Settlement. You will not be legally bound by anything that happens in this lawsuit and you will keep your right to sue the Defendant on your own for the claims that this Settlement resolves.

11. If I do not exclude myself, can I sue later?

No. If you do not exclude yourself from the Settlement, and the Settlement is approved by the Court, you forever give up the right to sue the Released Persons (listed in Question 8) for the claims this Settlement resolves.

12. What happens if I do nothing at all?

If you do nothing, you will be bound by the Settlement if the Court approves it, you will not get any money from the Settlement, and you will not be able to start or proceed with a lawsuit or be part of any other lawsuit against the Released Persons (listed in Question 8) about the settled claims in this case at any time.

THE LAWYERS REPRESENTING YOU

13. Do I have a lawyer in the case?

Yes. The Court has appointed Danielle Perry and Gary Mason of the law firm MASON LLP (called “Class Counsel”) to represent the interests of all Settlement Class Members in this case. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

14. How will the lawyers be paid?

Class Counsel will apply to the Court for an award of attorneys' fees and litigation expenses in an amount not to exceed \$195,000. A copy of Class Counsel's Application for Attorneys' Fees and Expenses will be posted on the Settlement Website, www.TXENTSettlement.com, before the Final Fairness Hearing. The Court will make the final decisions as to the amounts to be paid to Class Counsel, and may award less than the amount requested by Class Counsel.

OBJECTING TO THE SETTLEMENT

15. How do I tell the Court that I do not like the Settlement?

If you want to tell the Court that you do not agree with the proposed Settlement or some part of it, you can submit an objection telling it why you do not think the Settlement should be approved. Objections must be submitted in writing and include all the following information:

Such notice shall state:

- (i) the objector's full name, address, telephone number, and e-mail address (if any);
- (ii) information identifying the objector as a Settlement Class Member, including proof that the objector is a member of the Settlement Class (e.g., copy of notice, copy of original notice of the Data Incident);
- (iii) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable;
- (iv) the identity of any and all counsel representing the objector in connection with the objection;
- (v) a statement whether the objector and/or his or her counsel will appear at the Final Fairness Hearing;
- (vi) the objector's signature and the signature of the objector's duly authorized attorney or other duly authorized representative (along with documentation setting forth such representation); and
- (vii) a list, by case name, court, and docket number, of all other cases in which the objector and/or the objector's counsel has filed an objection to any proposed class action settlement within the last three (3) years.

Your Objection must include the case name and docket number, *Lee et al. v. Texas Ear, Nose & Throat Specialists, PLLC*, Case No. 2021-84322 (the "Texas ENT Action"), and be submitted to the Clerk of the Court by First-Class Mail, **received no later than October 23, 2023**, at the following address:

Harris County Clerk
P.O. Box 1525
Houston, TX 77251-1525

In addition, you must mail a copy of your objection to Class Counsel and Defense Counsel at the addresses listed below. Objections must be postmarked no later than October 23, 2023.

| CLASS COUNSEL | DEFENSE COUNSEL |
|---|---|
| Gary Mason Danielle Perry MASON LLP 5335 Wisconsin Ave., N.W., Suite 640 Washington, D.C. 20015-2052 | Michelle Gomez Chris Wiech Baker & Hostetler, LLP 1801 California St. Suite 4400 Denver, CO 80202-2662 |

If you do not submit your objection with all requirements, or if your objection is not received by **October 23, 2023**, you will be considered to have waived all objections and will not be entitled to speak at the Final Fairness Hearing.

16. What is the difference between objecting and asking to be excluded?

Objecting is simply telling the Court that you don't like something about the Settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you don't want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the Settlement no longer affects you.

THE FINAL FAIRNESS HEARING

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

The Court will hold the Final Fairness Hearing at on **December 5, 2023, at 1:30 p.m.**, at 201 Caroline St., 10th Floor, Houston, TX 77002. The hearing may be moved to a different date, time, or location without additional notice, so it is recommended that you periodically check www.TXENTSettlement.com for updated information.

At the hearing, the Court will consider whether the proposed Settlement is fair, reasonable, adequate, and is in the best interests of Settlement Class Members, and if it should be approved. If there are valid objections, the Court will consider them and will listen to people who have asked to speak at the hearing if the request was made properly. The Court will also consider the award of Attorneys' Fees and Expenses to Class Counsel and the request for a service award to the Class Representatives.

18. Do I have to come to the hearing?

No. You are not required to come to the Final Fairness Hearing. However, you are welcome to attend the hearing at your own expense.

If you submit an objection, you do not have to come to the hearing to talk about it. If your objection was submitted properly and on time, the Court will consider it. You also may pay your own lawyer to attend the Final Fairness Hearing, but that is not necessary.

19. May I speak at the hearing?

Yes. You can speak at the Final Fairness Hearing but you must ask the Court for permission. To request permission to speak, you must file an objection according to the instructions in Question 15, including all the information required. You cannot speak at the hearing if you exclude yourself from the Settlement.

DO NOTHING

20. What happens if I do nothing?

If you do nothing, you will not get any money from the Settlement, you will not be able to sue for the claims in this case, and you release the claims against Defendant described in Question 8.

GET MORE INFORMATION

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

This is only a summary of the proposed Settlement. If you want additional information about this lawsuit, including a copy of the Settlement Agreement, the Complaint, the Court's Preliminary Approval Order, Class Counsel's Application for Attorneys' Fees and Expenses, and more, please visit www.TXENTSettlement.com or call 1-877-685-2830. You may also contact the Claims Administrator at Texas ENT Claims Administrator, P.O. Box 2440, Portland, OR 97208-2440.

PLEASE DO NOT ADDRESS ANY QUESTIONS ABOUT THE SETTLEMENT OR LITIGATION TO THE CLERK OF THE COURT, THE JUDGE, DEFENDANT, OR DEFENDANT'S COUNSEL.

**Must be postmarked
or submitted online
NO LATER THAN
October 23, 2023**

TEXAS ENT CLAIMS ADMINISTRATOR
P.O. BOX 2440
PORTLAND, OR 97208-2440
www.TXENTSettlement.com

TEXAS ENT SETTLEMENT CLAIM FORM

SETTLEMENT BENEFITS – WHAT YOU MAY GET

If you reside in the United States and were mailed written notification by Texas ENT that your Personal Information was or may have been compromised in the Data Incident which occurred between August 9, 2021, and August 15, 2021, you are a Settlement Class Member and may submit a claim for Settlement benefits.

You may submit a claim for one or more of these benefits:

Cash Reimbursement. Use the Claim Form to request money for one or more of the following:

1. **Credit Monitoring.** If you are a Class Member whose Social Security Number was involved in the Data Incident, you can elect to enroll in two (2) years of three-bureau credit monitoring services. If you are a Class Member who did NOT have their Social Security Number involved in the Data Incident, you can elect to enroll in two years of Identity Force Rapid Response ID.
2. **Reimbursement for Money You Spent.** If you spent money because of the Data Incident, and you have documentation supporting these losses, you may be reimbursed up to \$300 for these Out-of-Pocket Expenses. You may also be eligible for reimbursement of up to \$3,000 in Extraordinary Losses. You must submit documents supporting your claim.
3. **Reimbursement for Lost Time.** If you spent time as a result of the Data Incident, you can be reimbursed for up to 3 hours by attesting to the time spent.

Claim submission options:

- File a claim online at www.TXENTSettlement.com. Your form must be submitted by **October 23, 2023**.
- Print this form, complete the form in its entirety, and mail to the Claims Administrator at the address listed above. Your Claim Form must be postmarked by **October 23, 2023**.
- You can contact the Claims Administrator to request a Claim Form be mailed to you. You must complete the Claim Form in its entirety and then mail the completed Claim Form so that it is postmarked by **October 23, 2023**.

* * *

The Settlement Notice describes your legal rights and options. Please visit the official Settlement Website, www.TXENTSettlement.com, or call **(877) 685-2830** for more information.

Please note that Settlement benefits will be distributed after the Settlement is approved by the Court and becomes Final.

Please note: the Claims Administrator may contact you to request additional documents to process your claim.

Your Information

1. NAME (REQUIRED):

First Name

MI

Last Name

2. MAILING ADDRESS (REQUIRED):

Street Address

Apt. No.

City

State

ZIP Code

3. PHONE NUMBER (REQUIRED):

Current Phone Number

 - -

4. EMAIL ADDRESS: (REQUIRED)

5. UNIQUE ID (REQUIRED; located on the Postcard Notice mailed to you):

(You must include your Unique ID in section above).

Credit Monitoring Services

You may be eligible to receive free Credit Monitoring Services.

For the approximately 29,506 Settlement Class Members whose Social Security Numbers were involved in the Data Incident, those Settlement Class Members can elect to enroll in two years of three-bureau credit monitoring services. For the remaining Settlement Class Members who did NOT have Social Security Numbers involved in this Incident, those Class Members can elect to enroll in two years of Identity Force Rapid Response ID.

Do you wish to sign up now for the applicable Credit Monitoring Product?

- Yes, I want to sign up to receive free Credit Monitoring.***
- I confirm that my email address in the 'Your Information' section above is correct.***
- I do not have an email address and would like credit monitoring instructions mailed to me. I understand that the service provider may require an email address for enrollment in credit monitoring services.***

If you select "YES" for this option, you will need to follow instructions and use an activation code that you receive after the Settlement is Final. The specific credit monitoring product provided to you will depend on whether you are a Settlement Class Member whose Social Security Number was involved in the Data Incident. Credit Monitoring Protections will not begin until you use your activation code to enroll. Activation instructions will be provided to your email address. If you do not have an email address, your activation code and instructions will be sent to your home address listed on this Claim Form.

Cash Payment: Documented Ordinary Out-of-Pocket Expenses
 (Not to exceed \$300 per Settlement Class Member, combined with claimed lost time)

PLEASE PROVIDE THE INFORMATION LISTED BELOW:

Enter the expense details for each category of documented out-of-pocket expenses, fraudulent charges, or lost time that you incurred between August 9, 2021, and October 23, 2023 as a result of the Data Incident. Please be sure to fill in the total amount you are claiming for each category and to attach documentation of the charges as described next to the check boxes below (if you are asked to provide account statements as part of proof required for any part of your claim, you may mark out any unrelated transactions if you wish).

| Expense Types | Approximate Total Amount of Expense | Description of Expense or Money Spent and Supporting Documents (Identify what you are attaching and how it's related to the Data Incident) |
|---|---|---|
| Long Distance phone charges | \$ <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> . <input type="text"/> <input type="text"/> Date: <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> MM DD YYYY | <hr/> <hr/> <hr/> |
| Cellular Phone charges (only if charged by the minute) | \$ <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> . <input type="text"/> <input type="text"/> Date: <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> MM DD YYYY | <hr/> <hr/> <hr/> |
| Internet usage charges (if either charged by the minute or incurred solely as a result of the Data Incident) | \$ <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> . <input type="text"/> <input type="text"/> Date: <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> MM DD YYYY | <hr/> <hr/> <hr/> |
| Costs of credit reports (if purchased between August 9, 2021, and October 23, 2023) | \$ <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> . <input type="text"/> <input type="text"/> Date: <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> MM DD YYYY | <hr/> <hr/> <hr/> |
| Costs associated with credit monitoring services and/or fraud resolution services (if purchased between August 9, 2021, and October 23, 2023) | \$ <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> . <input type="text"/> <input type="text"/> Date: <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> MM DD YYYY | <hr/> <hr/> <hr/> |

- I have attached a copy of a credit card statement, receipt, or other documentary proof of purchase for the foregoing fees, costs, or charges for each product purchased.*
- I affirm that the credit monitoring service or fraud resolution service claimed above was purchased primarily because of the Data Incident and not for any other purposes.*

Cash Payment: Documented Extraordinary Expenses

If you wish to receive reimbursement of actual, documented, and unreimbursed losses (up to \$3,000) that were more likely than not caused by the Data Incident, occurred between August 9, 2021, and October 23, 2023, and not already covered by one or more of the other categories of Settlement benefits, describe the unreimbursed losses claimed (including the amount of each loss), sign the attestation at the end of this Claim Form, and attach supporting documentation (if you provide account statements as part of proof required for any part of your claim, you may mark out any unrelated transactions if you wish). By signing the attestation below, you are affirming that to the best of your knowledge and belief, the claimed losses were more likely than not caused by the Data Incident.

Describe all actual, documented, and unreimbursed losses (including the amount of each loss and the total amount claimed) that were more likely than not caused by the Data Incident.

| Description of Expense or Money Spent and Supporting Documents (Identify what you are attaching, and how it relates to the Data Incident) | Approximate Total Amount of Expense |
|---|---|
| <p><i>Please provide a detailed description or a separate document submitted with this Claim Form.</i></p> <hr/> <hr/> <hr/> <hr/> | <p>\$ <input style="width: 20px; height: 20px;" type="text"/><input style="width: 20px; height: 20px;" type="text"/><input style="width: 20px; height: 20px;" type="text"/><input style="width: 20px; height: 20px;" type="text"/> • <input style="width: 20px; height: 20px;" type="text"/><input style="width: 20px; height: 20px;" type="text"/></p> <p>Date: <input style="width: 20px; height: 20px;" type="text"/><input style="width: 20px; height: 20px;" type="text"/> - <input style="width: 20px; height: 20px;" type="text"/><input style="width: 20px; height: 20px;" type="text"/> - <input style="width: 20px; height: 20px;" type="text"/><input style="width: 20px; height: 20px;" type="text"/><input style="width: 20px; height: 20px;" type="text"/><input style="width: 20px; height: 20px;" type="text"/></p> <p style="text-align: center; font-size: small;">MM DD YYYY</p> |
| <p><i>Please provide a detailed description or a separate document submitted with this Claim Form.</i></p> <hr/> <hr/> <hr/> <hr/> | <p>\$ <input style="width: 20px; height: 20px;" type="text"/><input style="width: 20px; height: 20px;" type="text"/><input style="width: 20px; height: 20px;" type="text"/><input style="width: 20px; height: 20px;" type="text"/> • <input style="width: 20px; height: 20px;" type="text"/><input style="width: 20px; height: 20px;" type="text"/></p> <p>Date: <input style="width: 20px; height: 20px;" type="text"/><input style="width: 20px; height: 20px;" type="text"/> - <input style="width: 20px; height: 20px;" type="text"/><input style="width: 20px; height: 20px;" type="text"/> - <input style="width: 20px; height: 20px;" type="text"/><input style="width: 20px; height: 20px;" type="text"/><input style="width: 20px; height: 20px;" type="text"/><input style="width: 20px; height: 20px;" type="text"/></p> <p style="text-align: center; font-size: small;">MM DD YYYY</p> |

- I have attached documentation showing that the claimed losses were more likely than not caused by the Data Incident.*
- Check this box to confirm that you have exhausted all applicable insurance policies, including credit monitoring insurance and identity theft insurance, and that you have no insurance coverage for these fraudulent charges.*

Cash Payment: Lost Time

(Up to 3 hours of loss time may be claimed, payable at \$20 per hour)

You may claim between one (1) and three (3) hours of time spent dealing with the Data Incident (which will be calculated and paid at a rate of \$20 per hour). You must attest that any claimed lost time was spent responding to issues raised by the Data Incident and provide a written description of how the claimed lost time was spent related to the Data Incident. Please note that the time that it takes to fill out this Claim Form is not reimbursable and should not be included in the total.

Total number of hours claimed: 1 Hour 2 Hours 3 Hours

In order to receive this payment, you must indicate what you did by checking at least one of the below boxes, or providing a written description if no checkbox is applicable.

I spent the claimed hours:

Monitoring financial accounts

Speaking and/or corresponding with financial institutions

Monitoring medical or health insurance accounts

Speaking and/or corresponding with medical institutions or health insurance companies

Other:

Signature

I declare under penalty of perjury and the laws of the United States and my state of residence that the information supplied in this Claim Form by the undersigned is true and correct to the best of my recollection, and that this form was executed on the date set forth below.

I understand that I may be asked to provide supplemental information by the Claims Administrator or Claims Referee before my claim will be considered complete and valid.

Signature

Date: - -
MM DD YYYY

Print Name

Submit Your Claim Form

This Claim Form and all supporting documentation must be either submitted online at **www.TXENTSettlement.com** or postmarked by **October 23, 2023** and mailed to:

Texas ENT Claims Administrator
P.O. Box 2440
Portland, OR 97208-2440

Exhibit 2

Lee et al. v Texas Ear, Nose & Throat Specialists, PLLC

Case No. 2021-84322

Valid Requests for Exclusion as of November 20, 2023

Postmark Deadline to Request Exclusion: October 23, 2023

| | Class Member Name | Postmark Date | Received Date |
|----|--------------------------|----------------------|----------------------|
| 1 | Stephen A. Rotondi | 8/1/2023 | 8/7/2023 |
| 2 | Rebecca Hansen | 8/3/2023 | 8/7/2023 |
| 3 | Lynnell Goodson | 8/1/2023 | 8/7/2023 |
| 4 | Carolyn Vance | 8/1/2023 | 8/7/2023 |
| 5 | Bren E. Blackburn | 8/1/2023 | 8/7/2023 |
| 6 | Kathryn Blackburn | 8/1/2023 | 8/7/2023 |
| 7 | Raymond Mansfield | 8/5/2023 | 8/8/2023 |
| 8 | Maryetta Easton | 8/8/2023 | 8/14/2023 |
| 9 | Carrie Pearson | 8/9/2023 | 8/14/2023 |
| 10 | Lainey Pearson | 8/9/2023 | 8/14/2023 |
| 11 | Bennett Pearson | 8/9/2023 | 8/14/2023 |
| 12 | Jeremy Rogers | 8/19/2023 | 8/24/2023 |
| 13 | Ashley Myers-Williams | 8/21/2023 | 8/25/2023 |
| 14 | Wayne Albrecht | 8/25/2023 | 8/30/2023 |
| 15 | Lisa Fleming | 9/21/2023 | 9/27/2023 |
| 16 | Jessica Stone | 9/27/2023 | 10/2/2023 |
| 17 | Peter Farver | 10/10/2023 | 10/16/2023 |
| 18 | Patrick Berg | 10/19/2023 | 10/23/2023 |
| 19 | Emily Brown | 10/19/2023 | 10/26/2023 |