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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

16 MICHAEL WILSON, a person lacking
17 legal capacity, by MOSANTHONY
18 WILSON, his conservator, on behalf of
19 himself and all others similarly situated,

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Plaintiff,

v.

22 MAXIM HEALTHCARE SERVICES,
23 INC., a Maryland Corporation

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Defendant.

ELECTRONICALLY RECEIVED
Superior Court of California,
County of San Diego
~~07/12/2023~~ at 04:57:35 PM
Clerk of the Superior Court
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FILED
San Diego Superior Court

JUL 28 2023

Clerk of the Superior Court
By: K. Mulligan, Deputy

Case No. 37-2022-00046497-CU-MC-CTL

Assigned to the Hon. Keri Katz
Department 74

**[PROPOSED] ORDER GRANTING FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

Action Filed: November 16, 2022

Date: July 28, 2023
Time: 8:30 a.m.
Dept.: D-74

1 WHEREAS, the Court, having considered the Settlement Agreement executed by the
2 Settling Parties on February 2, 2023 (the "Settlement Agreement") between and among Plaintiff
3 Michael Wilson, through his conservator Mosanthony Wilson ("Plaintiff"), individually and on
4 behalf of the Settlement Class, and Defendant Maxim Healthcare Services, Inc. ("Defendant" or
5 "Maxim") (collectively, the "Settling Parties"), the Court's Order Granting Plaintiff's Motion for
6 Preliminary Approval of Proposed Class Action Settlement ("Preliminary Approval Order"), having
7 held a Final Approval Hearing on July 28, 2023, having considered all of the submissions and
8 arguments with respect to the Settlement Agreement, and otherwise being fully informed, and good
9 cause appearing therefor:

10 **IT IS HEREBY ORDERED, ADJUGED, AND DECREED:**

11 1. Class Representative's Motion for Final Approval of Class Action Settlement and
12 Class Representative's Motion for an Award of Attorneys' Fees, Costs, Expenses and Service
13 Awards are GRANTED.

14 2. This Order incorporates herein and makes a part hereof the Settlement Agreement
15 (including its exhibits) and the Preliminary Approval Order. Unless otherwise provided herein, the
16 terms defined in the Settlement Agreement and Preliminary Approval Order shall have the same
17 meanings for purposes of this Order.

18 3. The Court has subject matter jurisdiction over this matter including, without
19 limitation, jurisdiction to approve the Settlement, confirm certification of the Settlement Class for
20 settlement purposes only, to settle and release all claims released in the Settlement Agreement, and
21 to dismiss the Action with prejudice.

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1 **I. CERTIFICATION OF THE SETTLEMENT CLASS**

2 4. Based on its review of the record, including the Settlement Agreement, all
3 submissions in support of the Settlement Agreement, and all prior proceedings in the Action, the
4 Court finally certifies the following Settlement Class for settlement purposes only:

5 "All persons to whom Maxim Healthcare Services, Inc. sent a letter, dated
6 November 4, 2021, entitled "Notice of Data Breach," regarding a data security
7 incident that occurred between roughly October 1, 2020 through roughly
8 December 4, 2020."

9 5. Excluded from the Settlement Class are: (1) the Judges presiding over the Action and
10 members of their families; (2) Defendant, its subsidiaries, parent companies, successors,
11 predecessors, and any Entity in which Defendant or its parents have a controlling interest, and its
12 current or former officers and directors; (3) natural persons who properly execute and submit a
13 Request for Exclusion prior to the Opt-Out Deadline; (4) the successors or assigns of any such
14 excluded natural person; and (5) any other person found by a court of competent jurisdiction to
15 be guilty under criminal law of initiating, causing, aiding, or abetting the Data Breach or who
16 pleads *nolo contendere* to any such charge.

17 6. For settlement purposes only, with respect to the Settlement Class, the Court
18 confirms that the prerequisites for a class action pursuant to Cal. Code of Civil Proc. § 382 have
19 been met, in that: (a) the Settlement Class is so numerous that joinder of all individual Settlement
20 Class Members in a single proceeding is impracticable; (b) questions of law and fact common to all
21 Settlement Class Members predominate over any potential individual questions; (c) the claims of
22 the Class Representative are typical of the claims of the Settlement Class; (d) Class Representative
23 and proposed Class Counsel have fairly and adequately represent the interests of the Settlement
24 Class; and (e) a class action is the superior method to fairly and efficiently adjudicate this
25 controversy.

26 **II. NOTICE TO THE SETTLEMENT CLASS**

27 7. The Court finds that Notice has been given to the Settlement Class in the manner
28 directed by the Court in the Preliminary Approval Order. The Court finds that such Notice: (i) was

1 reasonable and constituted the best practicable notice under the circumstances; (ii) was reasonably
2 calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the
3 Action, the terms of the Settlement Agreement including its release of Released Claims, their right
4 to exclude themselves from the Settlement Class or object to all or any part of the Settlement
5 Agreement, their right to appear at the Final Approval Hearing (either on their own or through
6 counsel hired at their own expense), and the binding effect of final approval of the Settlement
7 Agreement on all persons who do not exclude themselves from the Settlement Class; (iii)
8 constituted due, adequate, and sufficient notice to all persons entitled to receive notice; and (iv)
9 fully satisfied the requirements of California Code of Civil Procedure § 382, the United States
10 Constitution (including the Due Process Clause), and any other applicable law.

11 **III. FINAL APPROVAL OF THE SETTLEMENT AGREEMENT**

12 8. The Court finds that the Settlement Agreement resulted from arm's-length
13 negotiations between Class Counsel and Defendant.

14 9. The Court hereby finally approves in all respects the Settlement Agreement as fair,
15 reasonable, and adequate, and in the best interest of the Settlement Class.

16 10. The Court finds that Class Representative and Class Counsel fairly and adequately
17 represented the interests of Settlement Class Members in connection with the Settlement
18 Agreement.

19 11. The Settling Parties shall consummate the Settlement Agreement in accordance with
20 the terms thereof. The Settlement Agreement, and each and every term and provision thereof,
21 including its release, shall be deemed incorporated herein as if explicitly set forth herein and shall
22 have the full force and effect of an order of this Court.

23 **IV. RELEASE**

24 12. Upon the Effective Date, each Settlement Class Member, including Class
25 Representative, shall be deemed to have, and by operation of the Judgment shall have, fully, finally,
26 and forever released, relinquished, and discharged all Released Claims.
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1 13. Upon the Effective Date, Maxim shall be deemed to have, and by operation of the
2 Judgment shall have, fully, finally, and forever released, relinquished, and discharged Plaintiff, each
3 and all of the Settlement Class Members, and Plaintiff's counsel of all claims, including Unknown
4 Claims, based upon or arising out of the institution, prosecution, assertion, settlement, or resolution
5 of the Action or the Released Claims, except for enforcement of the Settlement Agreement. Any
6 other claims or defenses Maxim may have against Settlement Class Members including, without
7 limitation, any claims based upon or arising out of any retail, banking, debtor, creditor, contractual,
8 or other business relationship with such Settlement Class Members that are not based upon or do
9 not arise out of the institution, prosecution, assertion, settlement, or resolution of the Action or the
10 Released Claims are specifically preserved and shall not be affected by the preceding sentence.

11 14. For purposes of this Order and Judgment, "Released Claims" collectively means any
12 and all past, present, and future claims and causes of action including, but not limited to, any causes
13 of action arising under or premised upon any statute, constitution, law, ordinance, treaty, regulation,
14 or common law of any country, state, province, county, city, or municipality, including 15 U.S.C.
15 §§ 45 *et seq.*, and all similar statutes in effect in any states in the United States as defined below;
16 violations of the California Consumer Protection Act of 2018, Cal. Civ. Code § 1798, *et seq.*, as
17 amended; California Confidentiality of Medical Information Act, Cal. Civ. Code § 56, *et seq.*; and
18 all similar state privacy-protection statutes; negligence; negligence per se; breach of contract;
19 breach of implied contract; breach of fiduciary duty; breach of confidence; invasion of privacy;
20 fraud; misrepresentation (whether fraudulent, negligent or innocent); unjust enrichment; bailment;
21 wantonness; failure to provide adequate notice pursuant to any breach notification statute or
22 common law duty; and including, but not limited to, any and all claims for damages, injunctive
23 relief, disgorgement, declaratory relief, equitable relief, attorneys' fees and expenses, pre-judgment
24 interest, credit monitoring services, the creation of a fund for future damages, statutory damages,
25 punitive damages, special damages, exemplary damages, restitution, and/or the appointment of a
26 receiver, whether known or unknown, liquidated or unliquidated, accrued or unaccrued, fixed or
27 contingent, direct or derivative, and any other form of legal or equitable relief that either has been
28 asserted, was asserted, or could have been asserted, by any member of the Settlement Class against

1 any of the Released Persons based on, relating to, concerning or arising out of the Data Incident and
2 alleged access or misuse of PHI or PII or the allegations, transactions, occurrences, facts, or
3 circumstances alleged in, or otherwise described in, the Litigation. Released Claims shall not
4 include the right of any Settlement Class Member or any of the Released Persons to enforce the
5 terms of the settlement contained in this Settlement Agreement and shall not include the claims of
6 members of the Settlement Class Members who have timely excluded themselves from the
7 Settlement Class.

8 15. Further, upon the Effective Date, and to the fullest extent permitted by law, each
9 Settlement Class Member, including Class Representative, shall, either directly, indirectly,
10 representatively, as a member of or on behalf of the general public or in any capacity, be
11 permanently barred and enjoined from commencing, prosecuting, or participating in any recovery in
12 any action in this or any other forum (other than participation in the Settlement Agreement as
13 provided herein) in which any of the Released Claims is asserted.

14 **V. ATTORNEYS' FEES, COSTS, AND EXPENSES AND CLASS**
15 **REPRESENTATIVE'S SERVICE AWARD**

16 16. The Court awards attorneys' fees and expenses of \$ 195,000.00, and
17 payment of a Service Award in the amount of \$2,500.00 to the Class Representative. The Court
18 directs the Settlement Administrator to pay such amounts in accordance with the terms of the
19 Settlement Agreement. Class Counsel, in their sole discretion, shall allocate and distribute the
20 amount of the Fee Award and Costs awarded by the Court among Plaintiff's counsel.

21 **VI. OTHER PROVISIONS**

22 17. Without affecting the finality of this Judgment in any way, the Court retains
23 continuing jurisdiction over the Settling Parties and the Settlement Class for the administration,
24 consummation, and enforcement of the terms of the Settlement Agreement.

25 18. In the event the Effective Date does not occur, this Order shall be rendered null and
26 void and shall be vacated and, in such event, as provided in the Settlement Agreement, this Order
27 and all orders entered in connection herewith shall be vacated and null and void, the Settling Parties
28 shall be restored to their respective positions in the Action, all of the Settling Parties' respective pre-

1 Settlement claims and defenses will be preserved, and the terms and provisions of the Settlement
2 Agreement shall have no further force and effect with respect to the Settling Parties and shall not be
3 used in the Action or in any other proceeding for any purpose, and any judgment or order entered by
4 the Court in accordance with the terms of the Settlement Agreement shall be treated as vacated,
5 *nunc pro tunc*.

6 **IT IS SO ORDERED.**

7 Dated: **JUL 28 2023**


HON. KERI KATZ
JUDGE OF THE SUPERIOR COURT

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