

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT

DAVID ANDREONI, individually, and  
on behalf of all others similarly situated,

Plaintiff,

No. D-202-CV-2022-05463

v.

RADIOLOGY ASSOCIATES OF  
ALBUQUERQUE, P.A., d/b/a RAA  
IMAGING; ADVANCED IMAGING, LLC,  
d/b/a/ HIGH RESOLUTION,

Defendants.

**FINAL APPROVAL ORDER AND FINAL JUDGMENT**

Plaintiff, David Andreoni, and Defendants, Radiology Associates of Albuquerque, P.A. d/b/a RAA Imaging; and Advanced Imaging, LLC d/b/a High Resolution d/b/a Gifted Healthcare, have entered into a proposed Class Action Settlement Agreement (the “Settlement”). The Court previously granted preliminary approval to the Settlement, notice was issued to the Class Members, and the deadlines to opt out or object to the Settlement have now passed. Plaintiff has moved the Court to grant final approval to the Settlement under New Mexico Rules of Civil Procedure for the District Courts 1-023(E). Defendants do not oppose the motion.

One objection to the proposed settlement was filed. *See* May 7, 2024 Second Supplemental Declaration of Scott M. Fenwick at **Exhibit B**. Having considered the objection, the Court finds that it should be overruled.

**ACCORDINGLY, IT IS HEREBY ORDERED:**

1. Terms capitalized herein and not otherwise defined shall have the meanings ascribed to them in the Settlement.
2. This Court has jurisdiction over the subject matter of this lawsuit and jurisdiction over

the Class Representative and Defendants in the above-captioned case (the “Parties”).

3. The Court finds that the proposed Settlement Class, defined as follows, meets the requirements for certification for purposes of entry of judgment:

All individuals whose Personal Information was compromised as a result of the Data Incident.<sup>2</sup> Excluded from the Settlement Class are the undersigned judge, the judge’s family members, and those 24 persons identified on Exhibit A to the Second Supplemental Declaration of Scott M. Fenwick of Kroll Settlement Administration LLC in Connection with Final Approval of Settlement filed with the Court on May 7, 2024.

4. Specifically, the Court finds that the requirements of Rule 23(a) and 23(b)(3) are met:

- a. The class is so numerous that joinder of all members is impracticable, as there are thousands of class members;
- b. There are questions of law or fact common to the class based upon the claims raised in the lawsuit relating to the Data Incident that predominate over questions affecting only individual members;
- c. The claims of the Class Representative are typical of the claims of the Settlement Class as they arise from the Data Incident;
- d. The Class Representative and Class Counsel will fairly and adequately protect the interests of the Settlement Class;
- e. Questions of law or fact common to the Class Members predominate over any questions affecting only individual members and a class action is superior to other available methods for fairly and efficiently adjudicating this lawsuit.

5. The Court therefore certifies the Settlement Class, appoints Plaintiff as the Class Representative, and appoints Osteen & Harrison, PLC; Cohen & Malad, LLP; Stranch, Jennings & Garvey, PLLC; and Turke & Strauss, LLP as Class Counsel.

6. The Court finds that notice of the proposed Settlement was provided to the Settlement

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<sup>2</sup> “Data Incident” means the incident from approximately July 22, 2021 to August 3, 2021, and from December 22, 2020, to July 15, 2021, during which an unauthorized third party gained access to Defendants’ data systems, resulting in unauthorized access to the Plaintiff’s and Class Members’ personally identifying information and other sensitive, non-public financial information (collectively, “Personal Information”).

Class and that the notice met the requirements of Rule 1-023 and Due Process.

7. The Court finds that the terms of the Settlement represent a fair, reasonable, and adequate compromise under the circumstances of this case. Specifically, the Court finds that:

- (A) the Class Representative and Class Counsel have adequately represented the Class;
- (B) the proposal was negotiated at arm's length;
- (C) the relief provided for the class appears adequate, taking into account:
  - (i) the costs, risks, and delay of trial and appeal;
  - (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;
  - (iii) the terms of any proposed award of attorney's fees, including timing of payment; and
  - (iv) any agreement required to be identified under Rule 23(e)(3); and
- (D) the proposal treats class members equitably relative to each other.

8. The Court overrules the single objection that was filed. The objection does not provide any facts that overcome the Court's conclusions regarding the fairness of the Settlement. The Court therefore grants final approval to the Settlement and directs the parties to the Settlement Agreement to perform and satisfy the terms and conditions that are triggered by such final approval. Specifically, the Court approves the plan for payment of the Net Settlement Fund, including payment of any uncollected funds to the *cy pres* recipient as set forth in the Settlement.

9. Upon the occurrence of the Effective Date, the Class Representative and the Class Members release and forever discharge Defendants and its insurers, and including but not limited to their current and former officers, directors, employees, attorneys and agents from all known and unknown claims, demands, damages, causes of action or suits seeking damages, or other legal or

equitable relief arising out of or in any way related to the claims asserted or which could have been asserted in the Lawsuit relating to the Data Incident.

10. Upon the occurrence of the Effective Date, Defendants release all claims of any kind or nature that have been or could have been asserted against the Class Representative or Class Counsel relating to the claims in this lawsuit, or the filing or prosecution of any lawsuit relating to such claims.

11. This Order is a final judgment because it disposes of all claims against all parties to this lawsuit.

**THERE BEING NO JUST REASON FOR DELAY, LET JUDGMENT BE ENTERED ACCORDINGLY.**



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Joshua A. Allison  
District Court Judge

Respectfully submitted,

**O'STEEN & HARRISON, PLC**



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**Approved as to Form this 7th day of May 2024:**

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