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19 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
20 **IN AND FOR THE COUNTY OF TULARE**

21 In re HAPY BEAR SURGERY CENTER
22 DATA SECURITY INCIDENT
23 LITIGATION

24 This Document Relates To: All Actions

Case No. VCU307987
(Assigned for all purposes to Hon. Gary M.
Johnson, Dept. 7)

~~AMENDED PROPOSED~~ **PRELIMINARY
APPROVAL ORDER**

HEARING DATE: OCTOBER 7, 2024
TIME: 8:30 A.M.
DEPT. 7

COMPLAINT FILED: APRIL 15, 2024

1 **THIS MATTER HAVING** come before this Court for an Order preliminarily certifying
2 the Settlement Class and preliminarily approving a settlement between Plaintiffs David
3 Underwood and Duncan Meadows (“Plaintiffs”), and Hapy Bear Surgery Center, LLC
4 (“Defendant”), and this Court having reviewed the Settlement Agreement and attachments thereto
5 (“Agreement”) and submitted to the Court with the Unopposed Motion for Preliminary Approval
6 of Class Action Settlement (“Motion”);

7 **IT IS HEREBY ORDERED** as follows:

- 8 1. This Preliminary Approval Order incorporates the Agreement, and the terms used herein
9 shall have the meanings and/or definitions given to them in the Agreement, as submitted
10 to the Court with the Motion.
- 11 2. For purposes of the settlement, and conditioned upon the settlement receiving final
12 approval following the final approval hearing, this Court hereby conditionally certifies the
13 nationwide Settlement Class, defined as: “All persons whose personal identification
14 information and data was stored in HBSC’s systems at the time of the December 27, 2023
15 cybersecurity incident and who were impacted by the cybersecurity incident,” and the
16 California subclass defined as, “All members of the Nationwide Class who are also
17 California residents at the time of the December 27, 2023 cybersecurity incident.”
18 Excluded from the Class are the Judge presiding over this action, the Judge’s immediate
19 family, and the Court staff, as well as those members of the Class who opt-out from the
20 settlement pursuant to the procedures set forth in the Agreement and this Preliminary
21 Approval Order.
- 22 3. The Court finds that, for the purposes of settlement only: (a) the number of members of the
23 Settlement Class are so numerous that joinder is impracticable; (b) there are questions of
24 law and fact common to members of the Class; (c) the claims of the Plaintiffs are typical
25 of the claims of the members of the Class; (d) the Plaintiffs are an adequate representative
26 for the Settlement Class, and has retained experienced and adequate Class Counsel; (e) the
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questions of law and fact common to the members of the Class predominate over any questions affecting any individual members of the Class; and (f) a class action is superior to the other available methods for the fair and efficient adjudication of the controversy.

4. For the purposes of settlement only, the Court finds and determines that Plaintiffs David Underwood and Duncan Meadows will fairly and adequately represent the interests of the Class in enforcing their rights in the action and appoints them as the class representatives.

5. For purposes of settlement only, the Court appoints as Class Counsel as Daniel Srourian of the Srourian Law Firm, P.C. and Jason Wucetich of the law firm of Wucetich & Korovilas, LLP.

6. EAG Gulf Coast LLC is appointed as Claims Administrator. The Claims Administrator shall abide by the terms and conditions of the Agreement that pertain to the Clams Administrator.

7. The Final Approval Hearing Date shall be ~~07:30 a.m.~~ **08:30 a.m.** ~~2025~~ **2025** at **8:30 a.m.** before the Honorable Gary M. Johnson in Department 7, County of Tulare, 221 S. Mooney Blvd., Visalia, 93291 California, to consider: (a) the fairness, reasonableness and adequacy of the proposed Agreement; (b) any objections made by Class Members to the proposed Agreement; (c) whether the Agreement should be finally approved by this Court; (d) Class Counsel’s motion for attorneys’ fees and costs; (e) the motion seeking a service award for the Plaintiffs as class representatives; and (f) such other matters as this Court may deem proper and necessary.

8. Class Counsel are to file and serve the Motion for Final Approval and Motion for Fees, Costs, and Service Award 16 court days before the Final Approval Hearing.

9. The proposed forms of Class Notice are attached to the Agreement as Exhibit 2, and are hereby approved for the purpose of notifying the members of the Class of the proposed settlement, the Final Approval Hearing date, and the rights of the members of the Class to exclude themselves or object to the settlement, and shall be sent to the members of the

1 Class substantially in the forms approved. The parties may by mutual written consent make
2 non-substantive changes to the notices without Court approval. The costs of giving notice
3 to the members of the Classes will be paid by Defendant out of the Settlement Fund.

4 10. The Claims Administrator shall send the Short-Form Notice within 30 days after of the
5 entry of this Preliminary Approval Order.

6 11. The Long-Form Notice shall be posted on the settlement website created by the Claims
7 Administrator and be available on request made to the Claims Administrator.

8 12. Within seven days after the Opt-Out Date, the Claims Administrator shall furnish to
9 Proposed Settlement Class Counsel and to Defendant's counsel a complete list of all timely
10 and valid requests for exclusion.

11 13. The Notice, as set forth in Exhibit 2 to the Agreement and to be issued in the manner
12 described in the Agreement, is the best notice practicable, and is reasonably calculated,
13 under the circumstances, to apprise the members of the Class of the pendency of this action
14 and their right to participate in, object to, or exclude themselves from the settlement. This
15 Court further finds that the Notice, as set forth in Exhibit 2 to the Agreement, is sufficient
16 notice of the Final Approval Hearing date, the settlement, the Motion for Final Approval
17 and Motion for Fees, Costs, and Service Award, and other matters set forth in the
18 Agreement, and that the Notice set forth in Exhibit 2 of the Agreement fully satisfies the
19 California Rules of Court and due process of law, to all persons entitled thereto.
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21 14. Settlement Class Members who wish to exclude themselves from the Settlement Class for
22 purposes of this Settlement may do so by submitting a request for exclusion to the Claims
23 Administrator that is postmarked by 60 days after Claims Administrator sends the Short-
24 Form Notice. The request for exclusion must comply with the exclusion procedures set
25 forth in the Settlement Agreement. Each Settlement Class Member desiring to exclude
26 himself or herself from the Settlement Class shall timely submit, by U.S. Mail, written
27 notice of such intent to the designated address set forth in the Notice. The written notice
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- 1 must clearly manifest the intent to be excluded from the Settlement Class and must be
2 signed by the Settlement Class Member. A request for exclusion may not request exclusion
3 of more than one member of the Settlement Class. Each opt-out must be individually
4 signed; mass opt-outs are not permitted.
- 5 15. Any member of the Settlement Class who timely requests exclusion consistent with these
6 procedures may not file an objection to the Settlement and shall be deemed to have waived
7 any rights or benefits under this Settlement. Settlement Class Members who fail to submit
8 a valid and timely request for exclusion shall be bound by all terms of the Settlement
9 Agreement and the Final Judgment.
- 10 16. Any member of the Settlement Class who has not timely filed a request for exclusion may
11 object to the granting of final approval to the settlement. Settlement Class Members may
12 object on their own or may do so through separate counsel at their own expense.
- 13 17. Any written objection to the Settlement must include: (i) the name of the Action; (ii) the
14 objector's full name, address, and telephone number; (iii) the word "Objection" at the top
15 of the document; and (iv) in clear and concise terms, the legal and factual arguments
16 supporting the objection. To submit an objection, the objector must send a letter to EAG
17 Gulf Coast LLC, and as more set forth in the Agreement. Mailed objections must be filed
18 or postmarked 60 days following the Notice Date.
- 19 18. Any member of the Settlement Class who fails to file and serve a timely written objection
20 in compliance with the requirements of this order and the Settlement Agreement shall be
21 deemed to have waived any objections and shall be foreclosed from making any objections
22 (whether by appeal or otherwise) to the Settlement.
- 23 19. All pretrial proceedings in this action are stayed and suspended until further order of this
24 Court, except such actions as may be necessary to implement the Agreement and this
25 Preliminary Approval Order. All Settlement Class members are enjoined from pursuing
26 any action against Defendant related to the cybersecurity incident at issue in this action,
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outside of the action, pending further order by this Court.

- 20. In the event that the Settlement Agreement is terminated pursuant to its terms, disapproved by any court (including any appellate court), and/or not consummated for any reason, or the Effective Date for any reason does not occur, the order certifying the Settlement Class for purposes of effectuating the Settlement, and all preliminary and/or final findings regarding that class certification order, shall be automatically vacated upon notice of the same to the Court, the Action shall proceed as though the Settlement Class had never been certified pursuant to this Settlement Agreement and such findings had never been made, and the Action shall return to the procedural posture on the day before the Settlement Agreement was executed, in accordance with this paragraph.
- 21. For the benefit of the Class and to protect this Court’s jurisdiction, this Court retains continuing jurisdiction over the settlement proceedings to ensure the effectuation thereof in accordance with the settlement preliminarily approved herein and the related orders of this Court.
- 22. The parties are directed to carry out their obligations under the Agreement.
- 23. Class Counsel shall serve a copy of this Preliminary Approval Order on all named parties or their counsel with seven days of receipt.

Summary of Applicable Dates

- **Deadline to Send Notice to the Class:** As soon as practicable, but no later than 30 days after entry of Preliminary Approval/Notice Order.
- **Claims Deadline:** 90 days after the deadline to send Notice to the Class.
- **Objection Deadline:** 60 days after the deadline to send Notice to the Class.
- **Opt-Out Deadline:** 60 days after the deadline to send Notice to the Class.
- **Deadline to File Fee Application:** 16 court days before the Final Approval Hearing.

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- **Deadline to Respond to Objections and Move for Final Approval:** 16 court days before the Final Approval Hearing.
- **Final Approval Hearing Date:** ~~_____~~, ~~2025~~ ^{07:44:00 PM} ~~2025~~ at 8:30 a.m. (approx. 120 days from the date of this Order).

IT IS SO ORDERED

Dated: 10/07/2024



The Honorable Gary M. Johnson
Judge of the Superior Court of Tulare