

**UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT**

JESSICA GUERRERO, JEFFREY MATTHEWS  
AND JOSEPH CASTILLO, individually and on  
behalf of all others similarly situated,

Plaintiffs,

vs.

MERRITT HEALTHCARE HOLDINGS, LLC  
d/b/a MERRITT HEATHCARE ADVISORS,

Defendant.

CASE NO.: 3:23-cv-00389-MPS

**DECLARATION OF MARK SCHEY RE:  
CLASS NOTICE AND SETTLEMENT  
ADMINISTRATION**

I, Mark Schey, declare as follows:

1. I am a founding partner of Digital Settlement, LLC (“Digital Settlement”), a company that provides class action notice and claims administration. The following statements are based on my personal knowledge and information provided by other Digital Settlement principals and employees working under my supervision, and if called upon to do so, I could and would testify competently about these issues.

2. The key purpose of this Declaration is to provide the Court with information regarding (a) Digital Settlement’s implementation of the Court-approved Notice Plan set forth in the Settlement Agreement<sup>1</sup>, and (b) the reaction of the Settlement Class Members to the Settlement as of the date this Declaration is executed.

3. As the administrator for this settlement, Digital Settlement has, and continues to, perform the following duties: (1) arranging for the distribution of the Class Notice and Claim Forms to Settlement Class Members; (2) arranging and managing the direct notice to known Class

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<sup>1</sup> Capitalized terms used and not otherwise defined herein shall have the meanings given such terms in the Class Action Settlement Agreement.

Members; (3) answering inquiries from Settlement Class Members and/or forwarding such inquiries to Class Counsel or their designee; (4) receiving and maintaining on behalf of the Court and the Parties all Settlement Class Member correspondence regarding claims; (5) establishing the Settlement Website that posts notices, Claim Forms, and other related documents, as well as ensuring its functionality; (6) receiving and processing claims to vet and eliminate potential fraudulent claims; (7) submitting a Declaration attesting to the dissemination of the notice pursuant to the Court's Preliminary Approval Order and the Settlement Agreement, as well as the Settlement Class's reaction, including the number and amount of claims, objections, and exclusion requests received as of the date this Declaration is executed; and (8) providing reports to all counsel throughout the notice and claims process to allow for thorough oversight.

4. Digital Settlement has, and continues to, execute its duties in compliance with the Court-approved Notice Plan set forth in the Settlement Agreement.

**CLASS MEMBER DATA**

5. On May 28, 2024, Digital Settlement received a spreadsheet from the Defendant containing, among other information, first name, last name and mailing address for a total of 88,577 records.

6. Prior to noticing, Digital Settlement analyzed the raw data to consolidate any duplicate records within the spreadsheet and determined that all records were, in fact, unique. Digital Settlement also combined the records from the 3 different sheets in the provided file into one working format. Where applicable, Digital Settlement updated the Settlement Class Member contact information using data from the National Change of Address ("NCOA") database<sup>2</sup>.

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<sup>2</sup> The NCOA database is the official United States Postal Service ("USPS") technology product which makes changes of address information available to mailers to help reduce undeliverable mail pieces before mail enters the mail stream. This product is an effective tool to update address changes when a person has completed a change of address form with the USPS. The address information is maintained on the database for 48 months.

### **POSTCARD NOTICE**

7. Pursuant to the terms of the Settlement Agreement, on June 13, 2024, Digital Settlement mailed the Court-approved (“Postcard Notice”) via USPS to 86,997 unique Settlement Class Members. A representative sample of the Postcard Notice is attached hereto as **Exhibit A**.

8. As of the date of this Declaration, Digital Settlement has tracked 194 Postcard Notices that were returned as undeliverable. Of these 194 undeliverable Postcard Notices, 15 were re-mailed to forwarding addresses provided by the USPS.

9. As of the date of this Declaration, 86,818 Class Members were e-mailed a Notice or mailed a Postcard Notice that was not returned as undeliverable, representing 98% of the total Settlement Class.

### **SETTLEMENT WEBSITE**

10. On June 11, 2024, Digital Settlement established a Settlement Website at [www.merrittprivacysettlement.com](http://www.merrittprivacysettlement.com), which contains copies of important case documents, including the Class Action Settlement Agreement, The Long Form and Short Form Notices, answers to frequently asked questions, and contact information for the Administrator. Additionally, the Settlement Website allows Class Members to File a Claim Form electronically.

11. On July 29, 2024, Class Counsel filed its Petition for Attorneys’ Fees and Costs related to the Class Action Settlement Agreement, which Digital Settlement made promptly available on the Settlement Website on the next business day, July 30, 2024.

12. As of the date of the Declaration, Digital Settlement has tracked 3,924 unique users. Digital Settlement will continue to update and maintain the Settlement Website throughout the administration process.

### **CORRESPONDENCE WITH THE CLASS**

13. Per the terms of the Settlement, on June 11, 2024, Digital Settlement established a case email address at [info@merrittprivacysettlement.com](mailto:info@merrittprivacysettlement.com). As of the date of this Declaration, Digital Settlement has received 115 inbound emails and has sent 106 reply emails.

**REQUESTS FOR EXCLUSION**

14. The notices informed Class Members who wished to opt-out of the Settlement, that they must do so by mailing a letter to the administrator, postmarked on or before, August 12, 2024.

15. As of the date of this Declaration, Digital Settlement has received 3 requests for exclusion. A list of true and correct exclusions is attached hereto as **Exhibit B**.

**OBJECTIONS**

16. The notices informed Class Members that if they wished to object to the proposed Settlement, they could do so by filing a written objection with the Court, postmarked on or before August 12, 2024.

17. As of the date of this Declaration, Digital Settlement is aware of 1 objection shared by Defendant's Counsel. A list of true and correct objections is attached hereto as **Exhibit C**.

**CLAIM FORMS RECEIVED**

18. The notices informed Class Members that they must file a claim if they wish to receive a payment from the Settlement, and that those wishing to do so, could file a Claim Form on the Settlement Website on or before August 12, 2024. A representative sample of the Claim Form is attached hereto as **Exhibit D**.

19. As of the date of this Declaration, Digital Settlement has received 3,055 claims with a unique Claim ID and Pin Code that was a match to the data produced by Defendants. Digital Settlement is in the process of receiving, reviewing, and validating submitted Claim Forms, and will continue to do so throughout the duration of the Settlement.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct, and that this Declaration was executed on July 30, 2024. An updated declaration and notice statistics will be provided to the Court on October 1, 2024.

By:   
Mark Schey

# EXHIBIT A

You may be eligible for cash payment from Merritt Healthcare Advisors  
*Si desea recibir esta notificación en español, llámenos o visite nuestra página web.*

A settlement has been reached in a class action lawsuit against Merritt Healthcare Holdings, LLC d/b/a Merritt Healthcare Advisors (“Merritt”) that alleges that Merritt was negligent and breached contractual and statutory duties in connection with a data security incident in which cybercriminals gained access to Merritt’s network between July 30, 2022 and August 25, 2022. Merritt denies all of the claims and says it did not do anything wrong.

This notice summarizes the proposed settlement. For the precise terms of the settlement, please see the settlement agreement available at [www.merrittprivacysettlement.com](http://www.merrittprivacysettlement.com) or contact class counsel. Their information is listed on the Settlement website.

**ARE YOU INCLUDED?** Yes, Merritt’s records show that you are an individual whose information was accessed and that you were sent a notification of the data security incident between July 30, 2022, and August 25, 2022. Specifically, they show that you are a member of the following class: All individuals within the United States of America whose PHI/PII and/or financial information was exposed to unauthorized third parties as a result of the data breach discovered by Defendant on November 30, 2022. Excluded from the Settlement Class are (i) any judge or magistrate judge presiding over this Action, members of their staff, and members of their immediate families; (ii) the Released Parties; (iii) persons who properly execute and file a timely request for exclusion from the Settlement Class; (iv) persons whose claims in this matter have been finally adjudicated on the merits or otherwise released; (v) counsel for Merritt; and (vi) the legal representatives, successors, and assigns of any such excluded persons. Therefore, you are included in this Settlement as a “Settlement Class member.”

**WHAT ARE THE SETTLEMENT BENEFITS?** Merritt has agreed to establish a Settlement Fund of \$1,525,000.00. Settlement Class members who submit a valid claim will be reimbursed for out-of-pocket expenses or a *pro rata* cash payment. All attorneys’ fees and costs will also be paid from the Settlement Fund.

**HOW CAN I FILE A CLAIM?** The only way to file a claim is by filling out a Claim Form available at: [www.merrittprivacysettlement.com](http://www.merrittprivacysettlement.com). **All claims must be filed before August 12, 2024.**

**WHAT ARE MY OTHER OPTIONS?** If you do nothing, you will remain in the Class, you will not be eligible for benefits, and you will be bound by the decisions of the Court and give up your rights to sue Merritt for the claims resolved by this Settlement. If you do not want to be legally bound by the Settlement, you must exclude yourself by **August 12, 2024**. If you stay in the Settlement, you may object to it by **August 12, 2024**. A more detailed notice is available to explain how to exclude yourself or object. You may also enter an appearance in the case through an attorney, but you are not required to have an attorney to participate in the settlement, object to the settlement, or exclude yourself from the settlement. Please visit the settlement website below for a copy of the more detailed notice.

**WHEN WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?** On **October 15, 2024**, the Court will hold a Fairness Hearing to determine whether to approve the Settlement, Class Counsel’s request for attorneys’ fees, costs, and expenses and a service award of \$2,500 for each Plaintiff. The Motion for attorneys’ fees will be posted on the settlement website after it is filed. You or your own lawyer may ask to appear and speak at the hearing at your own cost, but you do not have to.

**For more information visit the website at [www.merrittprivacysettlement.com](http://www.merrittprivacysettlement.com)**

# EXHIBIT B

<b>DATE</b>	<b>FIRST NAME</b>	<b>LAST NAME</b>	<b>ADDRESS</b>	<b>CITY</b>	<b>STATE</b>	<b>ZIP</b>	<b>PHONE</b>	<b>EMAIL</b>	<b>SIGNED</b>
7/3/24	CAROLE	GILMAN	3102 N SHEFFORD	WICHITA	KS	67205	316-305-6848	<a href="mailto:CBG10@YAHOO.COM">CBG10@YAHOO.COM</a>	SIGNED
7/11/24	LINDA	GARVIN-HUNTER	13 ASHTON ROAD	YONKERS	NY	10705	NA	NA	SIGNED
7/19/24	JOHN	TAGLIARINO	809 REVERE AVENUE	BRONX	NY	10465	NA	NA	SIGNED



# EXHIBIT C

<b>First Name</b>	<b>Last Name</b>	<b>Address 1</b>	<b>Address 2</b>	<b>City</b>	<b>State</b>	<b>Zip</b>	<b>Claim ID</b>	<b>Signed</b>	<b>Received</b>
John	Orr	1614 S Saint Paul St		Wichita	KS	67213	81603663	Signed	7/8/24

# EXHIBIT D

**EXHIBIT C**

**ONLINE CLAIM FORM**

*Guerrero, et al. v. Merritt Healthcare Holdings, LLC*, Case No. 3:23-cv-00389 (D. Conn.)

**Important:** Your Claim Form must be submitted online by **August 12, 2024**, in order to be timely and valid. You may submit a Claim Form by completing the form below.

Your failure to submit a timely Claim Form will result in you forfeiting any payment and benefits for which you may be eligible under the Settlement.

**To begin your Claim Form, please enter your Claimant ID and PIN below.** Your Claimant ID and PIN are located on the front of the Notice that was emailed to you. If you did not receive a Notice but believe you are a Class Member, or have misplaced your notice, you may email [info@merrittprivacysettlement.com](mailto:info@merrittprivacysettlement.com) to get information regarding your claim.

Claimant ID: \_\_\_\_\_

PIN: \_\_\_\_\_

*(required, must be valid numbers)*

[NEXT button]

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**Claim Form Page:**

This claim form should be filled out online if you are an individual who received notice of a Data Security Incident that Merritt Healthcare Holdings, LLC, d/b/a/ Merritt Healthcare Advisors discovered by Merritt on November 30, 2022. You may get money if you fill out this claim form, if the Settlement is approved, and if you are found to be eligible for a payment.

The Settlement Notice describes your legal rights and options.

If you wish to submit a claim for a Settlement payment, you need to provide the information requested below.

TO RECEIVE ANY BENEFITS FROM THIS SETTLEMENT, YOU MUST PROVIDE ALL OF THE REQUIRED INFORMATION BELOW AND YOU MUST ELECTRONICALLY SIGN THIS CLAIM FORM.

First Name \_\_\_\_\_ *(required)* Middle Name \_\_\_\_\_ *(not required)* Last Name \_\_\_\_\_ *(required)*

Mailing Address \_\_\_\_\_ *(required)* City \_\_\_\_\_ *(required)*  
State \_\_\_\_\_ *(required)* Zip Code \_\_\_\_\_ *(required)*

Telephone Number \_\_\_\_\_ *(required, must be minimum of 10 digits)*

Email Address \_\_\_\_\_ *(required, must be valid email address format)*

PLEASE SELECT EITHER A *PRO RATA* CASH DISTRIBUTION CLAIM IF YOU HAVE NO DOCUMENTATION, OR A CLAIM FOR REIMBURSED OUT-OF-POCKET EXPENSES IF YOU HAVE OUT-OF-POCKET EXPENSES:

- PRO RATA* DISTRIBUTION
- OUT-OF-POCKET EXPENSES

IF YOU WOULD LIKE TO BE REIMBURSED FOR OUT-OF-POCKET LOSSES ASSOCIATED WITH THE DATA BREACH UP TO \$5,000, PLEASE FILL OUT THE FOLLOWING ENTRIES AND LIST THE AMOUNT SPENT, A SHORT DESCRIPTOR OF THE ACTIVITY, AND ATTACH DOCUMENTATION. COSTS LISTED FOR REIMBURSEMENT IN THIS SECTION WITHOUT DOCUMENTATION WILL **NOT** BE REIMBURSED.

Dollar Amount	Description (Attach Additional Pages if Necessary)

**I certify under penalty of perjury under the laws of the United States that all of the information provided on this Claim Form is true and correct to the best of my knowledge.**

Signature \_\_\_\_\_(required)

Date: (auto-populate)