

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT  
WILLIAMSON COUNTY, ILLINOIS

**FILED**  
**OCT 31 2023**  
**JUSTIN MAZE**  
CLERK OF THE CIRCUIT COURT

SUZANNE RESTIVO-CONLEY, individually )  
and on behalf of all others similarly situated, )

Plaintiff, )

vs. )

Case No.: 2022LA77

SOUTHERN ORTHOPEDIC ASSOCIATES, )  
S.C. D/B/A ORTHOPAEDIC INSTITUTE OF )  
WESTERN KENTUCKY AND SOUTHERN )  
ORTHOPEDIC ASSOCIATES, L.L.C. D/B/A )  
ORTHOPAEDIC INSTITUTE OF WESTERN )  
KENTUCKY, )

Defendant. )

**PRELIMINARY APPROVAL ORDER**

Suzanne Restivo-Conley, Melinda Fleet, and Sally Christiansen, by counsel, have submitted a Class Action Settlement Agreement (the “Settlement”) and have applied under 735 ILCS 5/2-806 for an order: (1) preliminarily approving the terms and conditions set forth in the Settlement, (2) certifying a class for purposes of settlement, (3) approving the form and method of notice to the Settlement Class, and (4) scheduling a final approval hearing to consider final approval of the Settlement. The Court has given due consideration to the terms of the Settlement, the exhibits to the Settlement, the submissions in support of preliminary approval of the Settlement, and the record of proceedings, and now finds that the proposed Settlement should be preliminarily approved pending notice to members of the Settlement Class and a final hearing on whether the Settlement is fair, reasonable, and adequate.

**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 Plaintiff, the members of the Settlement Class, and Defendant in the above-captioned case (the “Parties”).

3. The Court finds that for the purposes of settlement and notice the requirements of 735 ILCS 5/2-801 have been met, specifically:

- a. The Settlement Class is so numerous that joinder of all members is impracticable, as there are thousands of members;
- b. There are questions of law or fact common to the Settlement Class based upon the claims raised in the lawsuit stemming from the Data Incident, which common questions predominate over any questions affecting only individual members;
- c. The representative parties will fairly and adequately protect the interest of the Settlement Class; and
- d. The class action is an appropriate method for the fair and efficient adjudication of the controversy.;

The Court therefore **CERTIFIES** the following Settlement Class:

All persons Defendant identified as being among those individuals impacted by the Data Incident, including all who were sent a notice of the Data Incident.

The Court appoints Suzanne Restivo-Conley, Melinda Fleet, and Sally Christiansen as Class Representatives of the Settlement Class and appoints as Class Counsel the law firms of Stranch, Jennings & Garvey, PLLC; Cohen & Malad, LLP, Federman & Sherman, and George Feldman McDonald, PLLC.

4. The Court finds that the terms of the Settlement are within the range of a fair, reasonable, and adequate settlement between the Settlement Class and Defendant under the

circumstances of this case. The Court therefore preliminarily approves the Settlement and directs the Parties to the Settlement to perform and satisfy the terms and conditions of the Settlement that are triggered by such preliminary approval.

5. The proposed Summary Notice in the form attached to the Settlement, and the manner of distribution of such Notice by email and direct mail, are hereby approved by this Court as the best notice practicable to the Class. The proposed Detailed Notice attached to the Settlement and the manner of distribution of such by posting to the Settlement Website, is hereby approved by the Court. The form and manner of notice proposed in the Settlement complies with the requirements of due process. The Claim Form is likewise approved by the Court.

6. Pursuant to 735 ILCS 5/2-806 a final approval hearing (the “Final Approval Hearing”) shall be held before the undersigned at the Williamson County Courthouse, 200 W. Jefferson St., Marion, IL 62959. (or by telephone or video conference, if necessary) at 9:30 a.m., on 2/12, 20~~23~~<sup>24</sup>, for the purpose of: (a) determining whether the Settlement is fair, reasonable, and adequate and should be finally approved; (b) determining whether a Final Approval Order should be entered; and (c) considering Class Counsel’s application for an award of attorneys’ fees, expenses, and a service award. The Court may adjourn, continue, and reconvene the Final Approval Hearing pursuant to oral announcement without further notice to the Settlement Class, and the Court may consider and grant final approval of the Settlement, with or without minor modification and without further notice to the Settlement Class.

7. KCC Class Action Services, LLC is appointed as Settlement Administrator and shall cause notice to be sent to each member of the Settlement Class as set forth in the Settlement.

8. Class Members shall be afforded an opportunity to request exclusion from the Settlement. A request for exclusion must: (i) state that the member of the Settlement Class wishes to opt-out or request exclusion from the Class; (ii) contain the full name, current address, and telephone number of the person requesting exclusion; (iii) be signed by the person requesting exclusion; and (v) be sent to the Settlement Administrator by U.S. mail with a postmark on or before the Opt Out Period as defined in the Settlement. Members of the Settlement Class who submit a timely and valid request for exclusion from the Settlement shall not participate in and shall not be bound by the Settlement. Members of the Settlement Class who do not timely and validly opt out of the Settlement in accordance with the Notice shall be bound by all determinations and judgments in the action concerning the Settlement.

9. Class Members who have not excluded themselves shall be afforded an opportunity to object to the terms of the Settlement. Any objection must: (i) contain the full name and current address of the person objecting; (ii) contain the title of the Lawsuit: "*Restivo-Conley v. Southern Orthopedic Associates.*" with the case number; (iii) state the reasons for the Class Member's objection; (iv) be accompanied by any evidence, briefs, motions, or other materials the Class Member intends to offer in support of the objection; (v) be signed by the Class Member; (vi) state any intention to appear at the Final Approval Hearing; (vii) be sent by U.S. mail, first class and postage prepaid, with a postmark no later than the Objection Deadline, as defined in the Settlement, to the Settlement Administrator; and (viii) be filed with the Court no later than the Objection Deadline, as defined in the Settlement.

10. Any member of the Settlement Class who does not make his or her objection known in the manner provided in the Settlement and notice shall be deemed to have waived such

objection and shall forever be foreclosed from making any objection to the fairness or adequacy of the proposed Settlement.

11. Any request for intervention in this action for purposes of commenting on or objecting to the Settlement must meet the requirements set forth above, including the deadline for filing objections, and also must be accompanied by any evidence, briefs, motions or other materials the proposed intervenor intends to offer in support of the request for intervention.

12. Any lawyer intending to appear at the Final Approval Hearing must be authorized to represent a Class Member, must be duly admitted to practice law before the Court, and must file a written appearance. Copies of the appearance must be served on Class Counsel and counsel for Defendant in accordance with applicable rules of Court.

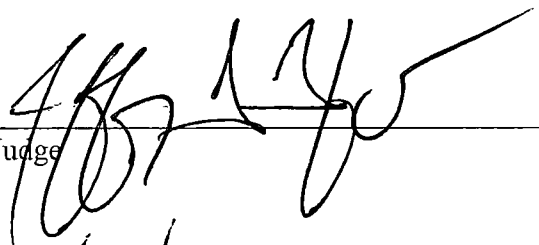
13. Class Counsel shall file with the Court the Settlement Administrator's sworn statement of all persons timely requesting exclusion from the Settlement, along with copies of the requests, as well as copies of all objections received by the Settlement Administrator.

14. No later than fourteen (14) days prior to the deadlines for a Settlement Class Member to opt out of or object to the Settlement, Class Counsel shall file a motion for approval of the attorneys' fees, expenses, and service awards to be paid from the Settlement Fund, along with any supporting materials, to be considered at the Final Approval Hearing.

15. If the Settlement does not become effective or is rescinded pursuant to the Settlement, the Settlement and all proceedings had in connection therewith shall be without prejudice to the status quo ante rights of the Plaintiff and Defendant, and all orders issued pursuant to the Settlement shall be vacated.

17. The Court retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

SO ORDERED.

  
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Judge  
10/31/23