

**COMMONWEALTH OF MASSACHUSETTS
HAMPDEN SUPERIOR COURT**

BONITA JOYNER,

Plaintiff,

v.

BEHAVIORAL HEALTH NETWORK,
INC.,

Defendant.

Case No. 2079CV00629

FINAL APPROVAL ORDER

WHEREAS, an action is pending before the Court entitled *Bonita Joyner v. Behavioral Health Network, Inc.*, No. 2079CV00629 (the “Action”);

WHEREAS, the Plaintiff and the Defendant in the Action have entered into a Settlement Agreement intended to resolve the Action on a class-wide basis;

WHEREAS, the Settlement agreement, together with supporting materials (collectively, the “Settlement”), sets forth the terms and conditions for a proposed settlement and dismissal of the Action;

WHEREAS, on September 28, 2021, the Court granted preliminary approval to the Settlement, certified the Settlement Class, directed that notice of the Settlement be sent to the Settlement Class, and directed that Class members file any objections to the Settlement within 30 days of notice;

WHEREAS, the Settlement Administrator has submitted a Declaration showing that notice was sent the Settlement Class and that no member of the Settlement Class had submitted a timely objection as of November 29, 2021, which was the deadline to object;

WHEREAS, one person emailed an objection to the Clerk of the Court on November 29, 2021 (the “Objection”);

WHEREAS, the Massachusetts IOLTA Committee submitted an objection requesting that it be named as the *cy pres* recipient of any residual settlement funds;

WHEREAS, the Parties have stated that they do not object to the Massachusetts IOLTA Committee being named as the *cy pres* recipient of any uncollected funds;

WHEREAS, the Court has before it the Motion for Final Approval of Class Action Settlement and papers in support thereof, together with the Settlement that was previously filed and supporting materials; and

WHEREAS, the Court has considered the terms and conditions of the proposed Settlement and determined that they were the result of good faith, arm’s-length settlement negotiations between competent and experienced counsel for both Plaintiff and Defendant; and

WHEREAS, the Court held a hearing on final approval of the Settlement;

IT IS HEREBY ORDERED AND ADJUDGED AS FOLLOWS:

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

¹ Massachusetts courts have jurisdiction over nonresident class members when those class members possess the requisite “minimum contacts” with Massachusetts. *Moelis v. Berkshire Life Ins. Co.*, 887 N.E.2d 214, 218 (Mass. 2008). Under the minimum contacts standard, a court may exercise personal jurisdiction over a nonresident class member “when the nonresident establishe[s] minimum contacts in the forum . . . [that] have a basis in some act by which the nonresident purposefully avails himself of the privilege of conducting activities in Massachusetts, thus invoking the benefits and protections of its laws.” *Id.* In this case, Behavioral Health Network, Inc., only has locations in the Commonwealth of Massachusetts. *See*

3. The Court grants final approval to the Settlement as being fair, reasonable, and adequate. The terms of the parties' Settlement are hereby approved.

4. The Court overrules the Objection. The Objection does not provide any basis for finding that the Settlement should not be approved and does not explain any reason why the Settlement is not fair, reasonable, and adequate.

5. The Court finds, for settlement purposes only, that the prerequisites for a class action under Rules 23(a) and (b) of the Massachusetts Rules of Civil Procedure have been satisfied in that: (a) the number of Settlement Class Members is so numerous that joinder of all members of the Classes is impracticable; (b) there are questions of law and fact common to each member of the Settlement Class; (c) the claims of the Plaintiff are typical of the claims of the Settlement Class she seeks to represent; (d) the Plaintiff and Class Counsel will fairly and adequately protect the interests of the Settlement Class; (e) the questions of law and fact common to the members of the Settlement Class predominate over any questions affecting only individual members; and (f) a class action is superior to other available methods for the fair and efficient adjudication of the controversy. Accordingly, the Court reaffirms its certification, for settlement purposes only, of the following Settlement Class pursuant to the Massachusetts Rules of Civil Procedure:

All individuals to whom a notification was sent on behalf of Behavioral Health Network, Inc. regarding the Data Security Incident.²

<https://www.bhninc.org/locations> (last visited Aug. 25, 2021). Thus, in order for Defendant to have had a class members' personal information to begin with, the class member would have had to have travelled to Massachusetts to do business with Defendant, thus establishing the necessary minimum contacts to support jurisdiction. *Moelis*, 887 N.E.2d at 218.

² "Data Security Incident" means the access, as the result of a cyberattack, by an unauthorized third party to certain computer systems of Defendant containing personal information and protected health information stored by Defendant, including patients' names, addresses, dates of birth, Social Security numbers, medical/diagnosis/treatment information, and/or health insurance claim information from May 26, 2020 to May 28, 2020. Settlement § 1.8.

6. The Court reaffirms appointment of the following counsel as Class Counsel: Branstetter, Stranch & Jennings, PLLC; Cohen & Malad, LLP; and Turke & Strauss LLP.

7. The Court orders and directs the parties to implement the terms and benefits provided for in the Settlement.

8. Pursuant to Massachusetts Rule of Civil Procedure 23(e)(2), any residual funds from the Settlement shall be distributed to the Massachusetts IOLTA Committee.

9. Upon the Effective Date of the Settlement, all members of the Settlement Class shall be barred from asserting any Released Claims against the Released Parties and any such member of the Settlement Class shall be conclusively deemed to have released any and all such Released Claims against the Released Parties.

10. This is a final order and judgment is entered upon the Settlement; this Order resolves all claims as to all parties, notwithstanding the Court's continuing jurisdiction over the implementation of the Settlement.

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

Dated:

Associate Justice of the Superior Court