

EXHIBIT 2

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE**

SUSAN SZUCS, ANTHONY PARRIZZI,
TERRENCE ERNEST GIDNEY, CHRISTINA
CHURCH, JIMMIE HARDAWAY, JR., SHARON
SIEGLE, PAUL PASCUCCI, JAMES
MARCISZEWSKI, and SHANNON ALLGRIM,
individually and on behalf of all others similarly
situated,

Plaintiffs,

v.

EXCELSIOR ORTHOPAEDICS, LLP and
BUFFALO SURGERY CENTER, LLP,

Defendants.

Index No. 812753/2024

CLASS ACTION

**AFFIRMATION OF CAMERON R. AZARI, ESQ., REGARDING IMPLEMENTATION
AND ADEQUACY OF NOTICE PLAN**

I, Cameron R. Azari, Esq., hereby declare and state as follows:

1. My name is Cameron R. Azari, Esq. I have personal knowledge of the matters set forth herein, and I believe them to be true and correct.

2. I am a nationally recognized expert in the field of legal notice and have served as an expert in hundreds of federal and state cases involving class action notice plans.

3. I am a Senior Vice President of Epiq Class Action & Claims Solutions, Inc. (“Epiq”) and the Managing Director of Epiq Legal Noticing (aka Hilsoft Notifications), a business unit of Epiq that specializes in designing, developing, analyzing, and implementing large-scale, un-biased, legal notification plans.

4. The facts in this affirmation are based on my personal knowledge, as well as information provided to me by my colleagues in the ordinary course of my business at Epiq and Epiq Legal Noticing (hereinafter “Epiq”).

OVERVIEW

5. This affirmation describes the successful implementation of the Settlement Notice Plan (“Notice Plan”) and Notices (the “Notice” or “Notices”) for the Settlement with Defendant

Excelsior Orthopaedics, LLP and Defendant Buffalo Surgery Center, LLP in *Szucs, et al. v. Excelsior Orthopaedics, LLP, et al.*, Index No.: 812753/2024, Supreme Court of the State of New York, Erie County. Previously, I executed my *Affirmation of Cameron R. Azari, Esq. Regarding Notice Plan* (“Notice Plan Affirmation”) on December 22, 2025, which described the Notice Plan, detailed Epiq’s class action notice experience and attached Epiq’s *curriculum vitae*. I also provided my educational and professional experience relating to class actions and my ability to render opinions on overall adequacy of notice plans.

NOTICE PLAN METHODOLOGY

6. N.Y. CPLR 904 directs that “reasonable notice of the commencement of a class action shall be given to the class in such manner as the court directs.”¹ The Notice Plan satisfied this requirement.

7. This Notice Plan as designed and implemented reached the greatest practicable number of Settlement Class Members. The Notice Plan individual notice efforts via mail to identified Settlement Class Members reached approximately 99% of the identified Settlement Class. The reach was further enhanced by a Settlement Website. In my experience, the Notice Plan was consistent with other court-approved notice plans and satisfied the requirements of due process, including its “desire to actually inform” requirement.²

NOTICE PLAN DETAIL

8. On February 11, 2026, the Court approved the Notice Plan and appointed Epiq as the Settlement Administrator in the *Order Granting Plaintiffs’ Unopposed Motion for Preliminary Approval* (“Preliminary Approval Order”). In the Preliminary Approval Order, the Court certified, for settlement purposes only, the following “Settlement Class”:

¹ N.Y. CPLR 904(b).

² *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 315 (1950) (“But when notice is a person’s due, process which is a mere gesture is not due process. The means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it. The reasonableness and hence the constitutional validity of any chosen method may be defended on the ground that it is in itself reasonably certain to inform those affected . . .”).

[A]ll living natural persons who are residents of the United States whose Personal Information was potentially accessible as a result of the Incident, including all persons who received notice of the Incident.

Excluded from the Settlement Class are: (1) the Judges presiding over the Action and members of their families; (2) Defendants and their officers and directors; (3) AMKAI, LLC d/b/a Surgical Information Systems and its officers and directors; (4) natural persons who properly execute and submit a Request for Exclusion prior to the expiration of the Opt-Out Period; and (5) the successors or assigns of any such excluded natural person.

9. After the Court’s Preliminary Approval Order was entered, Epiq implemented the Notice Plan. This affirmation details the notice activities undertaken to date and explains how and why the Notice Plan was comprehensive and well-suited to reach the Settlement Class Members. This affirmation also discusses the administration activity to date and provides updated statistics.

NOTICE PLAN

Individual Notice

10. On February 11, 2026, Epiq received one data file with 324,675 Settlement Class Members records, which included names and current or last known mailing addresses (if available) for identified Settlement Class Members (“Class List”). Epiq deduplicated, rolled-up, and loaded the unique, identified Settlement Class Member records into its database for the Settlement. These efforts resulted in 318,201 unique, identified Settlement Class Member records (of these, 33 records did not have an associated mailing address and were not sent Notice).

Individual Notice – Direct Mail

11. On March 13, 2026, Epiq commenced sending 318,168 double Postcard Notices with a detachable Claim Form (“Postcard Notice”) to all identified Settlement Class Members with an associated mailing address. The Postcard Notice was sent via United States Postal Service (“USPS”) first class mail. The Postcard Notice clearly and concisely summarized the case and the legal rights of the Settlement Class Members. In addition, the Postcard Notice also directed Settlement Class Members to the Settlement Website where they could access the Long Form Notice and additional information about the Settlement. The Postcard Notice is included as **Attachment 1**.

12. Prior to mailing the Postcard Notices, all mailing addresses were checked against the National Change of Address (“NCOA”) database maintained by the USPS.³ In addition, the addresses were certified via the Coding Accuracy Support System (“CASS”) to ensure the quality of the zip code, and verified through Delivery Point Validation (“DPV”) to verify the accuracy of the addresses. This address updating process is standard for the industry and for the majority of promotional mailings that occur today.

13. The return address on the Postcard Notices is a post office box that Epiq maintains for this Settlement. The USPS automatically forwarded Postcard Notices with an available forwarding address order that had not expired (“Postal Forwards”). Postcard Notices returned as undeliverable were re-mailed to any new address available through USPS information, for example, to the address provided by the USPS on returned pieces for which the automatic forwarding order has expired, or to better addresses that may be found using a third-party lookup service. This process is also commonly referred to as “skip-tracing.” Upon successfully locating better addresses, Postcard Notices were promptly re-mailed. As of May 28, 2026, Epiq has remailed nine Postcard Notices.

14. Additionally, a Long Form Notice and Claim Form (“Claim Package”) was mailed to all persons who request one via the toll-free telephone number or other means. As of May 28, 2026, Epiq mailed one Claim Package as a result of such requests. The Long Form Notice is included as **Attachment 2**. The Claim Form is included as **Attachment 3**.

Notice Results

15. As of May 28, 2026, a Postcard Notice was delivered to 316,284 of the 318,201 unique, identified Settlement Class Members. This means the individual notice efforts reached approximately 99% of the identified Settlement Class.

³ The NCOA database contains records of all permanent change of address submissions received by the USPS for the last four years. The USPS makes this data available to mailing firms and lists submitted to it are automatically updated with any reported move based on a comparison with the person’s name and known address.

Settlement Website

16. On March 12, 2026, Epiq established a dedicated website for the Settlement with an easy to remember domain name (www.ExcelsiorDataSettlement.com). Settlement Class Members are able to obtain detailed information about the Settlement and review key documents, including the Complaint, Long Form Notice, Claim Form, Settlement Agreement, Preliminary Approval Order, Motion for Attorneys' Fees, Costs, and Service Awards, and other case-related documents. In addition, the Settlement Website includes relevant dates, answers to frequently asked questions ("FAQs"), instructions for how Settlement Class Members could opt-out (request exclusion) from the Settlement Class or object to the Settlement prior to the deadlines, contact information for the Settlement Administrator, and how to obtain other case-related information. Settlement Class Members are also able to file a Claim Form on the Settlement Website. The Settlement Website address was prominently displayed in all notice documents. As of May 28, 2026, there have been 12,196 unique visitor sessions to the Settlement Website, and 37,509 web pages have been presented.

Settlement Toll-Free Number & Contact Information

17. On March 12, 2026, Epiq established a toll-free telephone number (1-877-327-7791) for the Settlement. Callers are able to hear an introductory message and have the option to learn more about the Settlement in the form of recorded answers to FAQs, and to request that a Claim Package be mailed to them. This automated telephone system is available 24 hours per day, 7 days per week. Callers also have the option to speak with a live agent during normal business hours. The toll-free telephone number was prominently displayed in all notice documents. As of May 28, 2026, there have been 1,573 calls to the toll-free telephone number representing 9,998 minutes of use, and service agents have handled 977 incoming calls representing 6,559 minutes of use.

18. A postal mailing address and email address were established and continue to be available, allowing Settlement Class Members the opportunity to request additional information or ask questions.

Claim Submission & Distribution Options

19. The Notices provided a detailed summary of relevant information about the Settlement, including the Settlement Website address, and how Settlement Class Members can submit a Claim Form online or by mail. With any method of filing a Claim Form, Settlement Class Members are given the option of receiving a digital payment or a traditional paper check. Epiq worked with the parties to select an appropriate menu of digital payment options. The type of digital payment selected does not impact Epiq's compensation for its work as Settlement Administrator, and no digital option is discouraged relative to other options.

20. The deadline for Settlement Class Members to file a Claim Form is June 11, 2026. As of May 28, 2026, Epiq has received 31,769 Claim Forms (5,551 online and 26,218 paper). Using the current number of Claim Forms received, and assuming all are valid, the estimated pro rata cash payment amount would currently be \$24.37 per Settlement Class Member.⁴ Since the June 11, 2026, Claims Deadline has not yet passed, these numbers are preliminary. As standard practice, Epiq is in the process of conducting a complete quality control review of all Claim Forms received. There is a likelihood that after detailed review, the total number of Claim Forms received will change due to duplicate and denied Claim Forms.

21. Typically, in data breach class settlements, anywhere from 50-80% of settlement class members who file a Claim Form choose to receive available credit monitoring benefits.

Request for Exclusion and Objections

22. The deadline to request exclusion from the Settlement Class or to object to the Settlement was May 17, 2026. As of May 28, 2026, Epiq has received 12 requests for exclusion. As of May 28, 2026, Epiq has received one objection to the Settlement unrelated to noticing or settlement administration. The Exclusion Report is included as **Attachment 4**.

⁴ Since Claim Forms are still being received, and incomplete Claim Forms have not gone through the defect process, the estimated pro rata cash payment amount provided will likely change before disbursement.

PLAIN LANGUAGE NOTICE DESIGN

23. The Notices were designed to be “noticed,” reviewed, and—by presenting the information in plain language—understood by Settlement Class Members. The design of the Notices followed the principles embodied in the Federal Judicial Center’s (“FJC”) illustrative “model” notices posted at www.fjc.gov. Many courts, and the FJC itself, have approved notices that Epiq’s noticing experts have written and designed in a similar fashion. The Notices contained substantial, albeit easy-to-read summaries of all key information about Settlement Class Members’ rights and options. Consistent with Epiq’s standard practice, all notice documents underwent a final edit prior to actual mailing and publication for grammatical errors and accuracy.

24. The Notices mailed to all identified Settlement Class Members provided substantial information to the Settlement Class. The Notices included (i) details regarding the Settlement Class Members’ ability to opt-out or object, (ii) the deadline to opt-out or object, and (iii) the date, time, and location of the Final Approval Hearing, among other information.

COST OF NOTICE AND ADMINISTRATION

25. Through April 2026, administration fees and expenses total \$703,643.93, which is inclusive of the costs to implement the Notice Plan and handle settlement administration to date. Based on the current scope of settlement administration, Epiq estimates approximately \$106,500 – \$126,500 of additional fees and expenses will be incurred to complete the settlement administration, including Medical Monitoring expenses, leading up to and following the Final Approval Hearing. This is not a minimum or a cap of costs to be incurred.

26. Additional work remains leading up to and following the Final Approval Hearing to complete all aspects of the settlement administration. The remaining work to be completed includes: (1) processing Claim Forms and completing quality review; (2) distributing settlement funds to members of the Settlement Class with a valid Claim Form (digital payments or physical checks and postage); (3) handling undeliverable payments; (4) re-issuing payments; (5) communications with members of the Settlement Class, including maintaining the Settlement Website and toll-free telephone number throughout the remaining duration of the settlement

administration; and (6) associated project management and related billable hours to handle the distribution and related settlement administration responsibilities. All fees and expenses are subject to the Service Contract under which Epiq is retained as the Settlement Administrator, and the terms and conditions of that agreement.

CONCLUSION

27. In class action notice planning, execution, and analysis, we are guided by due process considerations under the United States Constitution, by state and local rules and statutes, and further by case law pertaining to notice. This framework directs that the notice program be designed to reach the greatest practicable number of potential class members and, in a settlement class action notice situation such as this, that the notice or notice plan provide class members with easy access to the details of how the class action may impact their rights. All these requirements were met in this case.

28. The Notice Plan individual notice efforts via mail reached approximately 99% of the identified Settlement Class. The reach was further enhanced by a Settlement Website. In 2010, the FJC issued a *Judges' Class Action Notice and Claims Process Checklist and Plain Language Guide*, which is relied upon for federal cases and is illustrative for state cases. This Guide states that “the lynchpin in an objective determination of the adequacy of a proposed notice effort is whether all the notice efforts together will reach a high percentage of the class. It is reasonable to reach between 70–95%.”⁵ Here, we have developed a Notice Plan that readily achieved a reach beyond the high end of that standard.

29. The Notice Plan followed the guidance for how to satisfy due process obligations that a notice expert gleans from the United States Supreme Court’s seminal decisions, which are: a) to endeavor to actually inform the Settlement Class, and b) to demonstrate that notice is reasonably calculated to do so:

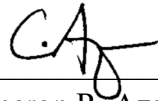
⁵ FED. JUDICIAL CTR, JUDGES’ CLASS ACTION NOTICE AND CLAIMS PROCESS CHECKLIST AND PLAIN LANGUAGE GUIDE 3 (2010), available at <https://www.fjc.gov/content/judges-class-action-notice-and-claims-process-checklist-and-plain-language-guide-0>.

- a) “[W]hen notice is a person’s due, process which is a mere gesture is not due process. The means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it,” *Mullane v. Central Hanover Trust*, 339 U.S. 306, 315 (1950); and
- b) “[N]otice must be reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections,” *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156 (1974) (citing *Mullane*, 339 U.S. at 314).

30. The Notice Plan conformed to all aspects of the New York Civil Practice Law Rule 904 regarding notice, comported with the guidance for effective notice stated in the Manual for Complex Litigation, Fourth, and satisfied the requirements of due process, including its “desire to actually inform” requirement.

31. The Notice Plan schedule afforded enough time to provide full and proper Notice to Settlement Class Members before the opt-out and objections deadlines.

I affirm this 28th day of May 2026, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.



Cameron R. Azari, Esq.

PRINTING SPECIFICATION STATEMENT

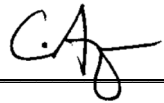
1. Pursuant to 22 N.Y.C.R.R. §202.8-b, the undersigned counsel certifies that this document was prepared on a computer using Microsoft Word. A proportionally spaced typeface was used as follows:

Name of Typeface: Times New Roman
Point Size: 12
Line Spacing: Exactly 24

2. The total number of words in the document, inclusive of point headings and footnotes and exclusive of the caption, signature block, and this Certification, is 2,745 words. By operation of Microsoft Word's word count function, this number includes legal citations and certain forms of punctuation.

Dated: May 28, 2026

Respectfully submitted,

By: _____

Attachment 1

Excelsior Incident
Settlement Administrator
PO Box 6484
Portland, OR 97228-6484

FIRST-CLASS MAIL
PRESORTED
U.S. POSTAGE PAID
PORTLAND, OR
PERMIT NO. 2882

Court-Approved Legal Notice

Szucs, et al. v. Excelsior Orthopaedics, LLP, et al.,
Case No. 812753/2024, Supreme Court of
New York, County of Erie

If your Personal Information was potentially accessible as a result of the Incident involving Excelsior Orthopaedics, LLP and Buffalo Surgery Center, LLC, discovered on or about June 24, 2024, you may be entitled to Benefits from a Settlement.

*A Court has authorized this notice.
This is not a solicitation from a lawyer.*

This notice is a summary. Learn more at www.ExcelsiorDataSettlement.com, or by calling toll-free 1-877-327-7791.



CLAIM FORM

Claims must be postmarked or submitted online no later than June 11, 2026.

First Name:	MI:	Last Name:																																										
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Documented Loss Payment: You may submit a Claim Form and provide reasonable documentation for losses related to the Incident for up to \$5,000 per Settlement Class Member. To file a Claim Form for a Documented Loss Payment, you must visit the Settlement Website and follow the instructions on the Claim Form. You can also download a paper Claim Form and file by mail.

Cash Fund Payment: Instead of a Documented Loss Payment, without providing documentation, you may submit a Claim Form to receive a *pro rata* (a legal term meaning equal share) cash payment.

☐ By checking this box, I affirm I want to receive the Cash Fund Payment.

If the total amount of approved Documented Loss Payments exceed the Net Settlement Fund, there will be no Cash Fund Payments and the Documented Loss Payments will be subject to a *pro rata* (a legal term meaning equal share) decrease.

Credit Monitoring: Your activation code for two years of free Credit Monitoring services with three credit bureaus is located on the informational portion of this notice (you do not need to submit a Claim Form to get your activation code).

By signing my name, I swear and affirm I am completing this Claim Form to the best of my personal knowledge.

Signature:	Date (MM/DD/YY):																										
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A Settlement has been reached in a class action lawsuit (the “Action”) against Excelsior Orthopaedics, LLP (“Excelsior”) and Buffalo Surgery Center, LLC (“BSC”) (together, “Defendants”) regarding a network incident during which cybercriminals gained unauthorized access to Defendants’ network systems, discovered on or about June 24, 2024, and resulting in the unauthorized access to certain files that may have contained Settlement Class Members’ Personal Information (the “Incident”). **Your decision to remain in the Settlement Class or to exclude yourself will not affect your rights or your ability to participate in any future settlement with any non-settling defendant.**

Who is Included? Records show you are a Settlement Class Member, defined as: all living natural persons who are residents of the United States whose Personal Information was potentially accessible as a result of the Incident, including all persons who received notice of the Incident.

What does the Settlement Provide? As a Settlement Class Member, you can submit a Claim Form online or by mail **postmarked by June 11, 2026**, for the following Settlement Benefits:

Documented Loss Payment: You may submit a Claim Form and provide reasonable documentation for losses related to the Incident for up to \$5,000 per Settlement Class Member; **OR**

Cash Fund Payment: Instead of a Documented Loss Payment, without providing documentation, you may submit a Claim Form to receive a *pro rata* (a legal term meaning equal share) cash payment; **AND**

Credit Monitoring: Without submitting a Claim Form, you are receiving below an activation code for two years of free Credit Monitoring services with three credit bureaus. After final approval, go to www.ExcelsiorDataSettlement.com or call toll-free 1-877-327-7791 for instructions on how to activate your credit monitoring code.

ACTIVATION CODE: ACSC-6719-8580-5300-8087

If the total amount of approved Documented Loss Payments exceeds the Net Settlement Fund, there will be no Cash Fund Payments and the Documented Loss Payments will be subject to a *pro rata* (a legal term meaning equal share) decrease.

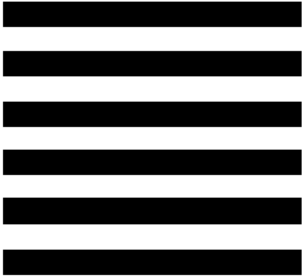
Equitable Relief: Defendants have spent an estimated \$600,000.00 to implement certain changes to their information security practices following the Incident, which is separate and apart from the \$2.4 million Settlement Fund.

Other Options. If you do not want to be legally bound by the Settlement, you must submit an opt-out request **postmarked by May 17, 2026 (“Opt-Out Period”)**. If you do not opt-out, you will give up the right to sue and will release the Released Settling Parties from the claims in this Settlement. If you do not opt-out, you may object to the Settlement and/or attorneys’ fees, costs, and/or Service Awards by **May 17, 2026 (“Objection Deadline”)**. The Long Form Notice on the Settlement Website explains how to opt-out or object. If you do nothing, you will get no cash payment, and you will be bound by the Settlement and any judgments and orders. The Court will hold a Final Approval Hearing on **July 8, 2026**, to consider whether to approve the Settlement, Class Counsel’s attorneys’ fees of up to 1/3 of the Settlement Fund and costs, Service Awards, and any objections. You or your lawyer may attend and ask to appear at the hearing if you object, but you are not required to do so.

Unique ID: [REDACTED] PIN: [REDACTED]



NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES



BUSINESS REPLY MAIL
FIRST-CLASS MAIL PERMIT NO. 581 PORTLAND, OR

POSTAGE WILL BE PAID BY ADDRESSEE

EXCELSIOR INCIDENT
SETTLEMENT ADMINISTRATOR
C/O EPIQ
PO BOX 6484
PORTLAND OR 97228-9920



Attachment 2

If your Personal Information was potentially accessible as a result of the Incident involving Excelsior Orthopaedics, LLP and Buffalo Surgery Center, LLC, discovered on or about June 24, 2024, you may be entitled to Benefits from a Settlement.

A Court authorized this Notice. This is not a solicitation from a lawyer.

- A settlement has been reached in a class action lawsuit (the “Action”) against Excelsior Orthopaedics, LLP (“Excelsior”) and Buffalo Surgery Center, LLC (“BSC”) (together, “Defendants”) regarding a network incident during which cybercriminals gained unauthorized access to Defendants’ network systems, discovered on or about June 24, 2024, and resulting in the unauthorized access to certain files that may have contained Settlement Class Members’ Personal Information (the “Incident”). The Personal Information involved includes, but is not limited to names, Social Security numbers, driver’s license numbers, state identification numbers, passport numbers, dates of birth, biometric information, diagnosis, financial account information, health insurance information, health information, and prescription information.
- **Your decision to remain in the Settlement Class or to exclude yourself will not affect your rights or your ability to participate in any future settlement with any non-settling defendant.**
- The Settlement Class includes: all living natural persons who are residents of the United States whose Personal Information was potentially accessible as a result of the Incident, including all persons who received notice of the Incident.
- If you are a Settlement Class Member, you can submit a Claim Form for the following Settlement Benefits:

Documented Loss Payment: You may submit a Claim Form and provide reasonable documentation for losses related to the Incident for up to \$5,000 per Settlement Class Member;
OR

Cash Fund Payment: Instead of a Documented Loss Payment, without providing documentation, you may submit a Claim Form to receive a *pro rata* (a legal term meaning equal share) cash payment;

AND

Credit Monitoring: Without submitting a Claim Form, you will receive an activation code for two years of free Credit Monitoring services with three credit bureaus. The Credit Monitoring activation code is located on your Settlement Notice, and can be activated after final settlement approval.

If the total amount of approved Documented Loss Payments exceeds the Net Settlement Fund, there will be no Cash Fund Payments and the Documented Loss Payments will be subject to a *pro rata* (a legal term meaning equal share) decrease.

Equitable Relief: Defendants are implementing additional security measures following the Incident.

This Notice may affect your rights. Please read it carefully.

Your Legal Rights & Options		Deadline
Submit a Claim Form	To receive a cash payment (Documented Loss Payment or Cash Fund Payment), you must submit a timely and valid Claim Form. You do not need to submit a Claim Form to receive Credit Monitoring.	Submitted or Postmarked by: June 11, 2026
Exclude Yourself	Get no Settlement Benefits. Keep your right to file your own lawsuit against the Released Settling Parties about the Released Claims released by the Settlement in this Action.	Postmarked by: May 17, 2026
Object to the Settlement	Stay in the Settlement but tell the Court why you do not agree with the Settlement. You will still be bound by the Settlement if the Court approves it.	Filed by: May 17, 2026
Do Nothing	Get no cash payment. Receive Credit Monitoring activation code. Give up your legal rights.	

Questions? Go to www.ExcelsiorDataSettlement.com or call 1-877-327-7791

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court must decide whether to approve the Settlement, Class Counsel’s Fee Award and Costs, and Service Awards. No Settlement Benefits will be provided unless the Court finally approves the Settlement.

BASIC INFORMATION

1. Why is this Notice being provided?

A Court authorized this Notice because you have the right to know about the settlement of this Action and about all your rights and options before the Court decides whether to grant final approval to the Settlement. This Notice explains the Action, the Settlement, your legal rights, what Settlement Benefits are available, who is eligible for the Settlement Benefits, and how to get them.

The Honorable Catherine Nugent Panepinto of the Supreme Court of the State of New York, Erie County is overseeing this Action. The Action is known as *Szucs, et al. v. Excelsior Orthopaedics, LLP, et al.*, Index No. 812753/2024. The individuals who filed this Action are called the “Plaintiffs” and/or “Class Representatives” and the companies sued, Excelsior Orthopaedics, LLP, Buffalo Surgery Center, LLC, are called the “Defendants.”

2. What is this lawsuit about?

The Plaintiffs filed this Action against Defendants on behalf of themselves and all others similarly situated regarding a network incident during which cybercriminals gained unauthorized access to Defendants’ network systems, discovered on or about June 24, 2024, and resulting in the unauthorized access to certain files that may have contained Settlement Class Members’ Personal Information (the “Incident”). The Personal Information involved includes, but is not limited to names, Social Security numbers, driver’s license numbers, state identification numbers, passport numbers, dates of birth, biometric information, diagnosis, financial account information, health insurance information, health information, and prescription information.

Excelsior and BSC have reached a \$2,400,000 settlement in the Action.

Defendants deny the legal claims and deny any wrongdoing or liability. The Court has not made any determination of any wrongdoing by Defendants, or that any law has been violated. Instead, the Plaintiffs and Defendants have agreed to a Settlement to avoid the risk, cost, and time of continuing the Action.

3. Why is there a Settlement?

The Plaintiffs and Defendants do not agree about the legal claims made in this Action. The Action has not gone to trial, and the Court has not decided in favor of the Plaintiffs or Defendants. Instead, the Plaintiffs and Defendants have agreed to settle the Action. The Class Representatives, Defendants, and their lawyers believe the Settlement is best for the Settlement Class because of the Settlement Benefits available and the risks and uncertainty associated with continuing the Action.

4. Why is this lawsuit a class action?

In a class action, one or more people (called class representatives) sue on behalf of all people who they allege have similar legal claims. Together, after a court grants certification, all these people are called a class or class members. One court resolves the issues for all class members, except for those class members who timely exclude themselves (opt-out) from the class.

Questions? Go to www.ExcelsiorDataSettlement.com or call 1-877-327-7791

WHO IS INCLUDED IN THE SETTLEMENT?

5. How do I know if I am included in the Settlement?

You are included in the Settlement Class if you are a living natural person who is a resident of the United States and your Personal Information was potentially accessible as a result of the Incident, including those who received notice of the Incident.

6. Are there exceptions to being included in the Settlement?

Yes. Excluded from the Settlement Class are: (1) the Judges presiding over the Action and members of their families; (2) Defendants and their officers and directors; (3) AMKAI, LLC d/b/a Surgical Information Systems and its officers and directors; (4) natural persons who properly execute and submit a Request for Exclusion prior to the expiration of the Opt-Out Period; and (5) the successors or assigns of any such excluded natural person.

7. What if I am still not sure whether I am part of the Settlement?

If you are still not sure whether you are a Settlement Class Member, you may go to www.ExcelsiorDataSettlement.com or call toll-free 1-877-327-7791.

THE SETTLEMENT BENEFITS

8. What does this Settlement provide?

If you are a Settlement Class Member, you can submit a Claim Form for the following Settlement Benefits:

Documented Loss Payment

You may submit a Claim Form and provide reasonable documentation for losses related to the Incident for up to \$5,000 per Settlement Class Member.

Examples of expenses incurred as a result of the Incident include (without limitation) bank fees, long distance phone charges, cell phone charges (only charged by the minute), data charges (only if charged based on the amount of data used), postage, gasoline for local travel and fees for credit reports, credit monitoring, or other identity theft insurance products purchased.

Examples of reasonable documentation include (but are not limited to): telephone records, correspondence including emails, or receipts.

If you do not submit reasonable documentation supporting a loss, or if your Claim Form is invalid as determined by the Settlement Administrator, and you do not cure your Claim Form, your Claim Form will be processed as a Cash Fund Payment.

Cash Fund Payment

Instead of a Documented Loss Payment, without providing documentation, you may submit a Claim Form to receive a pro rata (a legal term meaning equal share) cash payment.

If the total amount of approved Documented Loss Payments exceeds the Net Settlement Fund, there will be no Cash Fund Payments and the Documented Loss Payments will be subject to a *pro rata* (a legal term meaning equal share) decrease.

Questions? Go to www.ExcelsiorDataSettlement.com or call 1-877-327-7791

Credit Monitoring

Without submitting a Claim Form, you will receive an activation code for two years of free Credit Monitoring services with three credit bureaus. Credit Monitoring activation codes are located on your Settlement Notice. Please keep your notice, as you will only be able to activate the free Credit Monitoring after final settlement approval.

After final approval, go to www.ExcelsiorDataSettlement.com or call toll-free 1-877-327-7791 for instructions on how to activate your Credit Monitoring code.

Any residual funds remaining in the Net Settlement Fund after distribution of the Settlement Benefits will be issued to the Non-Profit Residual Recipient, Electronic Frontier Foundation, a 501(c)(3) non-profit third-party recipient.

Equitable Relief

Defendants have spent an estimated \$600,000.00 to implement certain changes to their information security practices following the Incident, which is separate and apart from the \$2.4 million Settlement Fund.

9. What am I giving up to receive Settlement Benefits or stay in the Settlement Class?

Unless you submit a Request for Exclusion (opt-out), you will remain in the Settlement Class. If the Settlement is approved and becomes final, all Court orders and any judgments will apply to you and legally bind you. You will not be able to sue, continue to sue, or be part of any other lawsuit against the Released Settling Parties about the Released Claims in this Action. The specific rights you are giving up are called “Released Claims.”

Your decision to remain in the Settlement Class or to exclude yourself will not affect your rights or your ability to participate in any future settlement with any non-settling defendant.

10. What are the Released Claims?

Section 5 of the Settlement Agreement describes the Release, Released Claims, and Released Settling Parties, in necessary legal terminology, so please read this section carefully. The Settlement Agreement is available at www.ExcelsiorDataSettlement.com. For questions regarding the Release, Released Claims, or Released Settling Parties and what the language in the Settlement Agreement means, you can also contact Class Counsel listed below for free, or you can talk to your own lawyer at your own expense.

HOW TO GET BENEFITS FROM THE SETTLEMENT

11. How do I submit a Claim Form?

You must submit a timely and valid Claim Form to receive a cash payment as described above. Your Claim Form must be submitted online at www.ExcelsiorDataSettlement.com by **June 11, 2026**, or mailed to the Settlement Administrator at the address on the Claim Form, **postmarked by June 11, 2026**. Claim Forms are also available at www.ExcelsiorDataSettlement.com or by calling 1-877-327-7791 or by writing to:

Excelsior Incident
Settlement Administrator
PO Box 6484
Portland, OR 97228-6484

Questions? Go to www.ExcelsiorDataSettlement.com or call 1-877-327-7791

You do not need to submit a Claim Form to receive your free Credit Monitoring services. The Credit Monitoring activation code is located on your Settlement Notice.

12. What happens if my contact information changes after I submit a Claim Form?

If you change your mailing address or email address after you submit a Claim Form, it is your responsibility to inform the Settlement Administrator of your updated information. You may notify the Settlement Administrator of any changes by writing to:

Excelsior Incident
Settlement Administrator
PO Box 6484
Portland, OR 97228-6484

13. When will I receive my Settlement Benefits?

Settlement Benefits will be provided after the Settlement is approved by the Court and becomes final. You must file a timely and valid Claim Form to receive a cash payment. To enroll in Credit Monitoring, after final approval, go to www.ExcelsiorDataSettlement.com or call toll-free 1-877-327-7791 for instructions on how to activate your Credit Monitoring code. The Credit Monitoring activation code is located on your Settlement Notice.

It may take time for the Settlement to be approved and become final. Please be patient and check www.ExcelsiorDataSettlement.com for updates.

EXCLUDE YOURSELF OR OPT-OUT OF THE SETTLEMENT

If you are a member of the Settlement Class and want to keep any right you may have to sue or continue to sue the Released Settling Parties on your own about the legal claims in this Action or the Released Claims, then you must take steps to get out of the Settlement through the submission of a Request for Exclusion. This is called excluding yourself from—or “opting-out” of—the Settlement.

14. How do I opt-out of the Settlement?

To exclude yourself from the Settlement, you must mail a written Request for Exclusion, which includes the following:

- 1) Case name - *Szucs, et al. v. Excelsior Orthopaedics, LLP, et al.*, Supreme Court of the State of New York, Erie County, Case No. 812753/2024;
- 2) Your name, address, telephone number;
- 3) Your personal physical signature; and
- 4) A statement that you want to be excluded from the Settlement Class, such as “I hereby request to be excluded from the Settlement Class in *Szucs, et al. v. Excelsior Orthopaedics, LLP, et al.*”

The exclusion request must be **mailed** to the Settlement Administrator at the following address, and be **postmarked by May 17, 2026**:

Excelsior Incident
Settlement Administrator
PO Box 6484
Portland, OR 97228-6484

You cannot opt-out (exclude yourself) by telephone or by email.

Questions? Go to www.ExcelsiorDataSettlement.com or call 1-877-327-7791

“Mass” or “class” Requests for Exclusion filed by third parties on behalf of a “mass” or “class” of Settlement Class Members or multiple Settlement Class Members where the opt-out has not been signed by each and every individual Settlement Class Member will not be allowed.

Your decision to remain in the Settlement Class or to exclude yourself will not affect your rights or your ability to participate in any future settlement with any non-settling defendant.

15. If I opt-out can I still get anything from the Settlement?

No. If you opt-out, you will not be able to receive Settlement Benefits, and you will not be bound by the Settlement or any judgments in this Action. You can only get Settlement Benefits if you stay in the Settlement. You must submit a timely and valid Claim Form to receive a cash payment. You do not need to submit a Claim Form to receive your free Credit Monitoring services but you must remain in the Settlement Class.

Your decision to remain in the Settlement Class or to exclude yourself will not affect your rights or your ability to participate in any future settlement with any non-settling defendant.

16. If I do not opt-out, can I sue the Defendants for the same thing later?

No. Unless you opt-out, you give up any right to sue any of the Released Settling Parties for the legal claims this Settlement resolves and Releases, and you will be bound by all the terms of the Settlement, proceedings, orders, and judgments in the Action. You must opt-out of this Action to start or continue your own lawsuit or be part of any other lawsuit against the Released Settling Parties about the Released Claims in this Settlement.

Your decision to remain in the Settlement Class or to exclude yourself will not affect your rights or your ability to participate in any future settlement with any non-settling defendant.

OBJECTING TO THE SETTLEMENT

17. How do I tell the Court I do not like the Settlement?

If you are a Settlement Class Member, you can tell the Court you do not agree with all or any part of Settlement, Settlement Benefits, Service Awards, and/or Class Counsel’s Fee Award and Costs.

To object, you must file your timely written objection with the Court as provided below by **May 17, 2026** (the “Objection Deadline”), and send by U.S. mail to Class Counsel, Defendants’ Counsel, and the Settlement Administrator postmarked by **May 17, 2026**, stating you object to the Settlement in *Szucs, et al. v. Excelsior Orthopaedics, LLP, et al.*, Case No. 812753/2024.

To file an objection, you cannot exclude yourself from the Settlement Class. Your objection must include all of the following information:

- 1) The case name and number - *Szucs, et al. v. Excelsior Orthopaedics, LLP, et al.*, Case No. 812753/2024;
- 2) Your full name, current mailing address, and telephone number;
- 3) A statement that you believe yourself to be a member of the Settlement Class;
- 4) Proof that you are a member of the Settlement Class (e.g., copy of the Settlement Notice, copy of the original notice of the Incident);
- 5) Identify the specific factual and legal grounds for the objection;
- 6) Identify whether your objection is to the Settlement in part or in whole;
- 7) State whether the objection applies only to you as the objector, a subset of the Settlement Class, or the entire Settlement Class;

Questions? Go to www.ExcelsiorDataSettlement.com or call 1-877-327-7791

- 8) Identify all lawyers representing you as the objector, if any;
- 9) Include a list, including case name, court, and docket number, of all other cases in which you and/or your lawyer have filed an objection to any proposed class action settlement in the past 5 years;
- 10) Include all documents or writings that you desire the Court to consider;
- 11) A statement regarding whether you (or your lawyer) intend to appear at the Final Approval Hearing; and
- 12) Your signature as the objector or your duly authorized lawyer or representative's signature.

To object, you must file your timely written objection with the Court by the Objection Deadline, **May 17, 2026**, and send it by U.S. mail to Class Counsel, Defendants' Counsel, and the Settlement Administrator **postmarked by May 17, 2026**, at the following addresses:

COURT	CLASS COUNSEL	DEFENDANTS' COUNSEL	SETTLEMENT ADMINISTRATOR
Erie County Chief Clerk's Office 25 Delaware Avenue Buffalo, NY 14202	Andrew Ferich Ahdoot & Wolfson, PC 201 King of Prussia Road Suite 650 Radnor, PA 19087 Arturo Peña Sterlington PLLC 530 5th Avenue Suite 804 New York, NY 10036 Tyler J. Bean Siri & Glimstad LLP 745 5th Avenue Suite 500 New York, NY 10151	David M. Ross Brian H. Myers Wilson Elser LLP 1500 K Street, NW Suite 330 Washington, D.C. 20005	Excelsior Incident Settlement Administrator PO Box 6484 Portland, OR 97228-6484

18. What is the difference between objecting and asking to be excluded?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object only if you stay in the Settlement Class. Opting-out is telling the Court that you do not want to be part of the Settlement Class. If you opt-out, you cannot object because you are no longer part of the Settlement.

THE LAWYERS REPRESENTING YOU

19. Do I have a lawyer in the lawsuit?

Yes. The Court has appointed Andrew W. Ferich of Ahdoot & Wolfson, PC, Arturo Peña of Sterlington PLLC, and Tyler J. Bean of Siri & Glimstad LLP as Class Counsel to represent you and the Settlement Class for the purposes of this Settlement. You may hire your own lawyer at your own cost if you want someone other than Class Counsel to represent you in this Action.

20. How will Class Counsel be paid?

Class Counsel will file a motion asking the Court to award the attorneys' fees of up to one-third (1/3) of the Settlement Fund, plus reimbursement of litigation expenses and costs. Class Counsel will also

Questions? Go to www.ExcelsiorDataSettlement.com or call 1-877-327-7791

ask the Court to approve Service Awards for the Class Representatives of up to \$2,500 each for their efforts. If awarded by the Court, the attorneys' fees and costs, and the Service Awards will be paid from the Settlement Fund. The Court may award less than these amounts.

THE FINAL APPROVAL HEARING

The Court will hold a "Final Approval Hearing" to decide whether to approve the Settlement and attorneys' fees and costs, and Service Awards. You may attend and you may ask to speak if you file an objection by the deadline, but you do not have to.

21. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing on **July 8, 2026, at 10:00 a.m.** before the Honorable Catherine Nugent Panepinto at the Erie County Court Building, 25 Delaware Ave, Buffalo, NY 14202. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate and decide whether to approve the Settlement, attorneys' fees and costs, and Service Awards.

Note: The date and time of the Final Approval Hearing are subject to change without further notice to the Settlement Class. The Court may also decide to hold the hearing via video conference or by telephone. You should check the Settlement Website www.ExcelsiorDataSettlement.com to confirm the date and time of the Final Approval Hearing have not changed.

22. Do I have to attend the Final Approval Hearing?

No. Class Counsel will answer any questions the Court may have. However, you are welcome to attend at your own expense. If you file an objection, you do not have to attend the Final Approval Hearing to speak about it. As long as you file your written objection by the deadline, the Court will consider it.

23. May I speak at the Final Approval Hearing?

If there are objections that were filed by the deadline, the Court will consider them. If you file a timely objection, and you (or your lawyer) ask to speak at the hearing, the Court may hear objections at the hearing.

GET MORE INFORMATION

24. How do I get more information about the Settlement?

This Notice summarizes the Settlement. Complete details about the Settlement are provided in the Settlement Agreement. The Settlement Agreement and other related documents are available at www.ExcelsiorDataSettlement.com. You may get additional information at www.ExcelsiorDataSettlement.com, by calling toll-free 1-877-327-7791, or by writing to:

Excelsior Incident
Settlement Administrator
PO Box 6484
Portland, OR 97228-6484

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT
CLERK'S OFFICE REGARDING THIS NOTICE.**

Questions? Go to www.ExcelsiorDataSettlement.com or call 1-877-327-7791

Attachment 3

**Must be postmarked or
submitted online
NO LATER THAN
JUNE 11, 2026**

**Excelsior Incident
Settlement Administrator
P.O. Box 6484
Portland, OR 97228-6484
ExcelsiorDataSettlement.com**

EXCELSIOR INCIDENT CLAIM FORM

Szuos et al. v. Excelsior Orthopaedics, LLP et al., Index No. 812753/2024, Supreme Court of New York, County of Erie

GENERAL INFORMATION

You are included in the Settlement Class if you are a resident of the United States and your Personal Information was potentially accessible as the result of the Incident that occurred on or about June 24, 2024, and you may submit a Claim.

The easiest way to submit a Claim is using the tear-off Claim Form provided to you or online at ExcelsiorDataSettlement.com. Alternatively, you can print out, complete, and mail this entire Claim Form (with any required documentation) to the mailing address above. **Claims must be submitted online or mailed by June 11, 2026.**

SETTLEMENT BENEFITS – WHAT YOU MAY GET

As a Settlement Class Member, you may be eligible for the following Settlement Benefit options:

1. **Documented Loss Payment:** You may submit a Claim Form and provide reasonable documentation for losses related to the Incident for up to \$5,000 per Settlement Class Member. Supporting documentation is required.

OR

2. **Cash Fund Payment:** Instead of a Documented Loss Payment, without providing documentation, you may submit a Claim Form to receive a pro rata (a legal term meaning equal share) cash payment.

If the total amount of approved Documented Loss Payments exceeds the Net Settlement Fund as described in the Settlement Agreement, there will be no Cash Fund Payments, and the Documented Loss Payments will be subject to a pro rata (a legal term meaning equal share) decrease.

AND

3. **Credit Monitoring:** Without submitting a Claim Form, you will receive an activation code for two years of free Credit Monitoring services with three credit bureaus located on your Settlement Notice. The Credit Monitoring code can be activated after final settlement approval.

After final approval, go to ExcelsiorDataSettlement.com or call toll-free 1-877-327-7791 for instructions on how to activate your Credit Monitoring code.

* * *

Please note: The Settlement Administrator may contact you to request additional documents to process your Claim.

For more information and complete instructions, visit ExcelsiorDataSettlement.com.

Please note that Settlement Benefits will be distributed, and the Credit Monitoring code activation will be available, after the Settlement is approved by the Court and becomes final.

Questions? Go to ExcelsiorDataSettlement.com or call 1-877-327-7791.

Contact Information

1. NAME (REQUIRED):

First Name

[illegible]

MI

Last Name

[illegible]

2. MAILING ADDRESS (REQUIRED):

Street Address

[illegible]

Apt. No.

[illegible]

City

[illegible]

State

--	--

ZIP Code

--	--	--	--	--

3. PHONE NUMBER:

The diagram shows three tens rods (each composed of ten units) minus one ten rod, resulting in two tens rods. This illustrates the calculation $30 - 10 = 20$.

4. EMAIL ADDRESS:

[illegible]

5. UNIQUE ID:

[illegible]

6. CASH PAYMENT METHOD (SELECT ONLY ONE):

☐ Physical Check ☐ Electronic Payment (You must provide a valid email address)

Credit Monitoring Services

You may be eligible to receive free Credit Monitoring services.

All Settlement Class Members will receive an activation code located on their Settlement Notice for two years of free Credit Monitoring services with three credit bureaus. You do not need to submit a Claim Form for Credit Monitoring. Please keep your Settlement Notice and check the Settlement Website from time to time to learn when the Settlement receives final Court approval. After final Court approval, you will be able to activate your free Credit Monitoring services.

Documented Loss Payments

If you lost or spent money related to the Incident and have not been reimbursed for that loss/expense, you can receive reimbursement for up to \$5,000 total. Eligible losses include those incurred after June 24, 2024, and up to the date of filing your Claim.

It is important for you to send reasonable documentation showing what happened and how much you lost or spent so you can be reimbursed.

If you do not submit reasonable documentation supporting a loss, or if your Claim Form is invalid as determined by the Settlement Administrator, and you do not cure your Claim Form, your Claim Form will be processed as a Cash Fund Payment.

To look up more details about how the Documented Loss Payments work, visit ExcelsiorDataSettlement.com or call toll-free 1-877-327-7791. Please also review the Long Form Notice on the Settlement Website, which provides examples of what documents you need to attach and the types of expenses that can be claimed. *By filling out the boxes below, you are certifying that the money you spent doesn't relate to other data incidents or breaches.*

Expense Type and Examples of Documents	Amount and Date	Description of Expense or Money Spent and Supporting Documents (Identify what you are attaching, and why it's related to the Incident)
Professional fees incurred to address identity theft or fraud, such as falsified tax returns and account fraud <i>Examples: Receipts, notices, or account statements reflecting payment for a credit freeze or unfreezing.</i>	\$. - - MM DD YYYY	
Unreimbursed fraud losses or charges resulting from identity theft or fraud (provide detailed description) fairly traceable to the Incident. <i>Examples: Account statement with unauthorized charges circled; bank fees, and fees for credit reports, credit freezes, credit monitoring, or other identity theft insurance products purchased</i>	\$. - - MM DD YYYY	
Other miscellaneous expenses such as notary, fax, postage, copying, mileage, and/or long-distance telephone charges related to the Incident. <i>Examples: Phone bills, receipts, detailed list of addresses you traveled to (i.e., police station, IRS office), reason why you traveled there (i.e., police report or letter from IRS re falsified tax return), and number of miles you traveled</i>	\$. - - MM DD YYYY	

Questions? Go to ExcelsiorDataSettlement.com or call 1-877-327-7791.

Cash Fund Payment

Instead of a Documented Loss Payment, without providing documentation, you may elect to receive a pro rata (a legal term meaning equal share) Cash Fund Payment.

If the total amount of approved Documented Loss Payments exceeds the Net Settlement Fund, there will be no Cash Fund Payments.

☐ **By checking this box, I affirm I want to receive a Cash Fund Payment.**

Signature

I affirm under the laws of the United States that the information I have supplied in this Claim Form and any copies of documents I am sending to support my Claim are true and correct to the best of my knowledge.

I understand I may be asked to provide more information by the Settlement Administrator before my Claim is considered complete.

Signature

Date: - -
MM DD YYYY

Print Name

Questions? Go to ExcelsiorDataSettlement.com or call 1-877-327-7791.

Attachment 4



Exclusion Report

Szucs, et al. v. Excelsior Orthopaedics, LLP, et al.

Number	Tracking Number
1	XXXXXXXX483
2	XXXXXXXX586
3	XXXXXXXX124
4	XXXXXXXX262
5	XXXXXXXX678
6	XXXXXXXX637
7	XXXXXXXX515
8	XXXXXXXX345
9	XXXXXXXX794
10	XXXXXXXX395
11	XXXXXXXX292
12	XXXXXXXX693