

**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

FINAL APPROVAL ORDER

WHEREAS, on February 10, 2026, a Preliminary Approval Order was entered by the Court, preliminarily approving the proposed Settlement pursuant to the terms of the Settlement Agreement, and directing that Notice be given to the Settlement Class.

WHEREAS, pursuant to the Notice Plan requirements set forth in the Settlement Agreement and in the Preliminary Approval Order, the Settlement Class was notified of the terms of the proposed Settlement, of the right of members of the Settlement Class to request exclusion or object, and of the right to be heard at a Final Approval Hearing to determine, *inter alia*: (1) whether the terms and conditions of the Settlement Agreement are fair, reasonable, and adequate for the release of the claims contemplated by the Settlement Agreement; and (2) whether the Final Approval Order should be entered and the Action should be dismissed with prejudice;

WHEREAS, a Final Approval Hearing was held on July 2, 2026, both in person in this Court, and via videoconferencing. Settlement Class Members were notified of their right to appear

at the Final Approval Hearing in support of or in opposition to the proposed Settlement, the award of attorneys' fees and expenses to Class Counsel, and Service Awards to Class Representatives.

NOW, THEREFORE, the Court having heard the presentation of Class Counsel and Defendants' Counsel, having reviewed all of the submissions presented with respect to the proposed Settlement, having determined that the Settlement is fair, reasonable, and adequate, having considered the application for attorneys' fees, expenses, and Service Awards ("Fee Motion"), and having reviewed the materials in support thereof, and good cause appearing:

THIS COURT FINDS AND ORDERS AS FOLLOWS:

1. The capitalized terms used in this Final Approval Order shall have the same meaning as defined in the Settlement Agreement except as may otherwise be ordered.
2. The Court has jurisdiction over the subject matter of this Action and over all claims raised therein and all parties thereto, including the Settlement Class.
3. The Court hereby approves the Settlement, including the plans for implementation and distribution of the Settlement Benefits, and finds that the Settlement is, in all respects, fair, reasonable, and adequate to the Settlement Class Members, within the authority of the Settling Parties, and the result of extensive arm's-length negotiations. The Settling Parties shall effectuate the Settlement Agreement in accordance with its terms. The Settlement Agreement and every term and provision thereof shall be deemed incorporated herein as if explicitly set forth and shall have the full force of an Order of this Court.
4. There are only 12 Requests for Exclusion from the Settlement. The Settlement Class Members who requested exclusion from the Settlement are identified in **Exhibit 1** hereto.

5. The Settlement Class, which will be bound by this Final Approval Order, shall include all Settlement Class Members who did not submit timely and valid Requests for Exclusion from the Settlement Class.

6. For the purposes of the Settlement and this Final Approval Order, the Court hereby:

a. certifies the following Settlement Class pursuant to NY CPLR §§ 901, *et seq.*: “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. 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.”;

b. appoints Plaintiffs Susan Szucs, Anthony Parrizzi, Terrence Ernest Gidney, Christina Church, Jimmie Hardaway, Jr., Sharon Siegle, Paul Pascucci, James Marciszewski, and Shannon Allgrim, for settlement purposes only, as Class Representatives for the Settlement Class. The Court finds that the Class Representatives are similarly situated to absent Settlement Class Members and are typical of the Settlement Class, and, therefore, they will be adequate Class Representatives;

c. appoints Andrew W. Ferich of Ahdoot & Wolfson, PC, Tyler J. Bean of Siri & Glimstad LLP, and Arturo Peña of Sterlington PLLC as Class Counsel; and

d. finds the dissemination of Notice to Settlement Class Members: (a) was successfully implemented in accordance with the Preliminary Approval Order; (b) constituted the best notice practicable under the circumstances; (c) constituted notice that was reasonably

calculated, under the circumstances, to apprise Settlement Class Members of (i) the pendency of the Action; (ii) their right to submit a claim (where applicable) by submitting a Claim Form; (iii) their right to exclude themselves from the Settlement Class; (iv) the effect of the proposed Settlement (including the releases to be provided thereunder); (v) the Fee Motion and the amounts being sought for attorneys' fees and costs, and Service Awards; (vi) their right to object to any aspect of the Settlement, and/or Class Counsel's Fee Motion; and (vii) their right to appear at the Final Approval Hearing; (d) constituted due, adequate, and sufficient notice to all natural persons entitled to receive Notice of the proposed Settlement; and (e) satisfied the requirements of NY CPLR §§ 901, *et seq.*, the Constitution of the United States (including the Due Process Clause), and all other applicable laws and rules.

7. All persons who have not made their objections to the Settlement in the manner provided in the Settlement Agreement are deemed to have waived any objections by appeal, collateral attack, or otherwise.

8. Within the time periods set forth in the Settlement Agreement, the Settlement Benefits provided for in the Settlement Agreement shall be paid to the Settlement Class Members submitting valid Claim Forms, pursuant to the terms and conditions of the Settlement Agreement.

9. The Release set forth in section 5 of the Settlement Agreement is expressly incorporated herein in all respects. Upon the Effective Date, and in consideration of the Settlement Benefits, the Class Representatives and all Settlement Class Members identified in the Settlement Class list, on behalf of themselves, their heirs, assigns, executors, administrators, predecessors, and successors, and any other person purporting to claim on their behalf, release and discharge all Released Claims, including Unknown Claims, against the Released Settling Parties and agree to refrain from instituting, directing, or maintaining any lawsuit, contested matter, adversary

proceeding, or miscellaneous proceeding against each of the Released Settling Parties that relates to the Incident or otherwise arises out of the same facts and circumstances set forth in the class action complaint in this Action.

10. More specifically, Class Representatives and Settlement Class Members who have not timely opted out of the Settlement release “Released Claims” against Defendants and all Released Settling Parties, as defined in the Settlement Agreement at paragraphs 1.41 and 5.1. Released Claims shall not include the right of any Settlement Class Member or any of the Released Parties to enforce the terms of the Settlement contained in the Settlement Agreement and shall not include the claims of the persons identified in **Exhibit 1** to this Order, who have timely and validly excluded themselves from the Settlement Class.

11. Pursuant to the Settlement Agreement, “Unknown Claims” means:

[A]ny and all Released Claims that Defendants or any Class Representative or Class Member does not know or suspect to exist in his, her, or its favor as of the Effective Date and which, if known by him, her, or it, might have materially affected his, her, or its decision(s) with respect to the Settlement. Class Representatives and Class Counsel acknowledge, and each Class Member by operation of law shall be deemed to have acknowledged, that the inclusion of “Unknown Claims” in the definition of Released Claims was separately bargained for and was a key element of the Settlement Agreement.

Settlement Class Members, including Plaintiffs, may hereafter discover facts in addition to, or different from, those that they, and any of them, now know or believe to be true with respect to the subject matter of the Released Claims, but Plaintiffs expressly shall have, and each other Settlement Class Member shall be deemed to have, and by operation of the Final Approval Order shall have, upon the Effective Date, fully, finally and forever settled and released any and all Released Claims. The Settling Parties acknowledge, and Settlement Class Members shall be deemed by operation of the Final Approval Order to have acknowledged, that the foregoing waiver is a material element of the Settlement Agreement of which this release is a part.

12. All Settlement Class Members who did not validly and timely opt out are hereby permanently barred and enjoined from filing, commencing, prosecuting, maintaining, intervening in, participating in, conducting, or continuing, either directly or in any other capacity, any action or proceeding in any court, agency, arbitration, tribunal, or jurisdiction, asserting any claims against Defendants or Released Settling Parties released pursuant to the Settlement Agreement.

13. The terms of the Settlement Agreement and this Final Approval Order shall have maximum *res judicata*, collateral estoppel, and all other preclusive effect in any and all claims for relief, causes of action, suits, petitions, demands in law or equity, or any allegations of liability, damages, debts, contracts, agreements, obligations, promises, attorneys' fees, costs, interest or expenses, which were or could have been asserted in the Action or in any third-party action.

14. The Final Approval Order, the Settlement Agreement, the Settlement which it reflects, and all acts, statements, documents, or proceedings relating to the Settlement are not, and shall not be construed as, or used as a finding or an admission by or against Defendants of any fault, wrongdoing, or liability on the part of Defendants or of the validity or certifiability for litigation of any claims.

15. The Court finds Service Awards of \$2,500 per each Class Representative are fair and reasonable. The amounts are to be paid out of the Settlement Fund, in accordance with the Settlement Agreement.

16. The Court hereby approves an award of attorneys' fees in an amount of \$800,000 and litigation costs and expenses in an amount of \$39,598.21. These amounts are to be paid out of the Settlement Fund, in accordance with the Settlement Agreement. The Court finds these amounts to be fair and reasonable pursuant to NY CPLR § 909.

17. The Court has considered the lone objection to the Settlement. The Court finds and concludes that the objection is without merit and is hereby overruled.

18. The above-captioned Action is hereby dismissed against Defendants in its entirety, with prejudice. Except as otherwise provided in this Final Approval Order, the Settling Parties shall bear their own costs and attorneys' fees. Without affecting the finality of the Final Approval Order and judgment entered, the Court reserves jurisdiction over the implementation of the Settlement, including enforcement and administration of the Settlement Agreement.

19. This Final Approval Order resolves all claims against all parties in this Action and is a final order. The Clerk is directed to file this Final Approval Order in this matter, and the Court reserves jurisdiction over the consummation and enforcement of the Settlement.

20. Should any non-distributable residual of the Settlement Fund remain following distribution of the Settlement Benefits, the Settling Parties shall distribute the residual to the Non-Profit Residual Recipient, the Electronic Frontier Foundation, pursuant to and in adherence with the terms of paragraphs 1.31 and 4.9 of the Settlement Agreement.

IT IS SO ORDERED, ADJUDGED, AND DECREED:

Date: _____, 2026

Hon. Catherine Nugent Panepinto