

**FAULKNER COUNTY ARKANSAS CIRCUIT COURT**

**Notice of Class Action and Proposed Settlement**

*You may be entitled to receive benefits under this class action settlement.*

This notice summarizes the proposed settlement reached in a lawsuit entitled *Marshall v. Conway Regional Medical Center, Inc.*, 23CV-20-771 (Faulkner Cnty. Cir. Ct. 1st Div.), pending in the Faulkner County Arkansas Circuit Court (“Lawsuit”). For the precise terms and conditions of the settlement, please see the settlement agreement available at [www.conwaydatasettlement.com](http://www.conwaydatasettlement.com), by contacting the Settlement Administrator at 888-768-7138, or by accessing the Court docket in this case through the Court’s system at [https://caseinfo.arcourts.gov/cconnect/PROD/public/ck\\_public\\_qry\\_main.cp\\_main\\_idx](https://caseinfo.arcourts.gov/cconnect/PROD/public/ck_public_qry_main.cp_main_idx).

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK’S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.

**This notice may affect your rights - please read it carefully.**

*A state court authorized this notice. This is **not** a solicitation from a lawyer.*

1. The lawsuit alleges that on or about June 26, 2019, Conway Regional Medical Center, Inc. (“Conway”) was the victim of a cyberattack resulting in the potential accessibility of personal information and protected health information, including names, addresses, Social Security numbers, health insurance information and limited medical information (the “Data Incident”). Conway maintains that it has meritorious defenses, and it was prepared to vigorously defend the lawsuit. The settlement is not an admission of wrongdoing or an indication that Conway has violated any laws, but rather the resolution of disputed claims.

2. If your information was potentially accessible in the Data Incident, you are a Settlement Class Member.

3. The Settlement provides that Settlement Class Members are eligible for the IDX Identity Protection Services Settlement Offering by submitting the Election Form by **February 20, 2023** and following the additional enrollment instructions to activate the plan as instructed.

4. The Settlement also provides that Settlement Class Members who elected to receive and enrolled in the IDX Identity Protection Services Settlement Offering may also seek reimbursement of up to \$850 for documented Economic Losses Settlement Class Members suffered as a result of the Data Incident that have not been reimbursed by IDX or another third party. To be eligible for reimbursement, you must submit sufficient evidence of your economic loss and satisfy additional requirements. The deadline to submit a claim is **February 20, 2023**.

5. The Settlement also provides that Settlement Class Members may seek reimbursement for Lost Time related to the Data Incident. To be eligible for reimbursement, you must submit a claim showing the Lost Time is fairly traceable to the Data Incident. The deadline to submit a claim is **February 20, 2023**.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>SUBMIT AN ELECTION FORM</b> <b>DEADLINE: February 20, 2023</b>	This is the only way for Settlement Class Members to enroll in the IDX Identity Protection Services Settlement Offering paid for by Conway. If you submit an Election Form, you will give up the right to sue Conway in a separate lawsuit about the claims this Settlement resolves.
<b>REIMBURSEMENT FORMS</b> <b>DEADLINE: February 20, 2023</b> <b>SUBMIT ONE OR MORE</b>	This is the only way for Settlement Class Members to request reimbursement of economic losses or lost time related to the Data Incident. You must elect to receive and enroll in the IDX Identity Protection Services Settlement Offering offered through this settlement to be eligible for reimbursement. If you submit a Reimbursement Form, you will give up the right to sue Conway in a separate lawsuit about the claims this settlement resolves.
<b>DO NOTHING</b>	Unless you exclude yourself, you are automatically part of this Settlement. If you are a Settlement Class Member and do not submit an Election Form or a Reimbursement Form, you will not receive anything from the settlement, and you will still give up the right to sue, continue to sue, or be part of another lawsuit against Conway about the legal claims resolved by this Settlement.
<b>EXCLUDE YOURSELF</b> <b>DEADLINE: DECEMBER 21, 2022</b>	You will not receive benefits from the Settlement, but you will not be bound by the terms of the Settlement, if approved by the Court.
<b>OBJECT:</b> <b>DEADLINE: DECEMBER 21, 2022</b>	If you do not exclude yourself from the Settlement Class, you may object to the Settlement or to Class Counsel’s request for fees, or the Class Representatives’ requests for Service Awards, respectively.
<b>GO TO A HEARING ON FEBRUARY 7, 2023</b>	You may object to the Settlement and ask the Court for permission to speak at the Fairness Hearing about your objection.

6. These rights and options—**and the deadlines to exercise them**—are explained in this Notice.

7. The Court still must decide whether to approve the Settlement. No benefits will be provided, or payments made until after the Court grants final approval of the Settlement and all appeals, if any, are resolved.

QUESTIONS? READ ON AND VISIT [www.conwaydatasettlement.com](http://www.conwaydatasettlement.com)

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## **BASIC INFORMATION**

### **Why is this notice being provided?**

This Class Notice is provided pursuant to an order issued by the Court to inform you of the proposed Settlement and the Final Approval Hearing to be held by the Court to consider, among other things, (a) whether the Settlement is fair, reasonable and adequate and should be approved; and (b) Class Counsel's request for Class Counsel Fees and Expenses and the Class Representative's request for a Service Award. This Class Notice explains the nature of the lawsuit, the general terms of the proposed Settlement (including the benefits available), and your legal rights and obligations. This Class Notice is not an expression of any opinion by the Court as to the merits of the claims or defenses asserted in the Action.

The Honorable Susan K. Weaver of the Faulkner County Arkansas Circuit Court is overseeing this action, which is known as *Marshall v. Conway Reg. Med. Ctr., Inc.*, 23CV-20-771. The person that filed the lawsuit is called the "Plaintiff." Conway is the "Defendant."

### **What is this lawsuit about?**

The lawsuit alleges that on or about June 26, 2019, Conway Regional Medical Center, Inc. was the victim of a cyberattack resulting in the potential accessibility of personal information and protected health information, including names, addresses, Social Security numbers, health insurance information and limited medical information.

Plaintiff claims that Conway did not adequately protect personal information, and that as a result of the Data Incident people were harmed. Conway denies any wrongdoing, and no court or other entity has made any judgment or other determination of any wrongdoing or that any law has been violated.

### **Why is this a class action?**

In a class action, one or more people called "class representatives" sue on behalf of themselves and other people who are alleged to have similar claims. The Plaintiff (the class representative here), together with the people she represents, are called Settlement Class Members. One court resolves the issues for all Settlement Class Members, except for those people who timely exclude themselves from the Settlement Class. In this case, the Class Representative is Danielle Marshall.

### **Why is there a Settlement?**

The Court has not decided in favor of Plaintiff or Conway. Instead, both sides agreed to a settlement. Settlement avoids the costs and uncertainty of trial and related appeals, while providing benefits to members of the Settlement Class. The Class Representative and attorneys for the Settlement Class ("Settlement Class Counsel") believe the Settlement is in the best interests of the Settlement Class Members.

## **Who Is In The Settlement**

### **How do I know if I am part of the Settlement?**

You are included in the Settlement Class if you are a member of the following:

All persons who:

1. entrusted personally identifiable information or protected health information to Conway;
2. had that information potentially accessible in the Data Incident; and
3. are not affiliates, legal representatives, attorneys, heirs, assigns, officers, directors, or employees of Defendant or any entity in which Defendant has a controlling interest.

### **What if I am not sure whether I am included in the Settlement?**

If you are not sure whether you are in the Class or have any other questions about the Settlement, call the toll-free number, 1-888-768-7138. You also may write with questions to: Conway Data Settlement, PO Box 23309, Jacksonville, FL 32241 or go to [www.conwaydatasettlement.com](http://www.conwaydatasettlement.com).

### **The Settlement Benefits**

#### **What benefits does the Settlement provide?**

Conway will provide Settlement Class Members the following benefits under the Settlement: (1) coverage under IDX Identity Protection Services credit monitoring and identity restoration services for an additional period of two years; and (2) reimbursement of documented, unreimbursed Economic Losses up to \$850.00, and \$40.00 for lost time per Settlement Class Member, which are: (a) related to the Data Incident; (b) not otherwise reimbursable by IDX or another third party; (c) supported by required documentation; and (d) meet all requirements set forth in the Reimbursement Form and the Settlement Agreement.

Complete details regarding the settlement benefits are available in the Settlement Agreement, which is available at [www.conwaydatasettlement.com](http://www.conwaydatasettlement.com).

#### **Tell me more about enrollment in the IDX Identity Protection Services plan.**

Settlement Class Members can enroll in the following IDX Identity Protection Services credit monitoring and identity restoration plan:

##### **Identity Theft Protection,**

Settlement Class Members shall have the option to sign-up for the two years of IDX Identity Protection Services offered by the Settlement (“Settlement Offering”).<sup>1</sup> If a Settlement Class Member elects to utilize the Settlement Offering, he or she can make that election by **February 20, 2023**. If a Settlement Class Member elects to receive the Settlement Offering, he or she must activate the IDX Identity Protection Services plan in accordance with the instructions provided.

#### **Tell me more about reimbursement of economic costs.**

**Reimbursement of Documented Economic Losses.** Any Settlement Class Member may submit one or more Claims for reimbursement for documented Economic Losses related to the Data Incident that have not been reimbursed by IDX or other third parties, up to an aggregate total of \$850.00 per Settlement Class Member, provided, however, that no Settlement Class Member may submit a Reimbursement Form unless

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<sup>1</sup> IDX’s credit monitoring and identity restoration services include: (i) credit monitoring, (ii) dark web monitoring, (iii) identity theft insurance with coverage up to \$1,000,000, and (iii) fully managed identity recovery.

said Settlement Class Member has first elected to receive and enrolled in the IDX Identity Protection Services Settlement Offering, submitted a Reimbursement Claim to IDX, IDX has denied the claim, and the Settlement Class Member has exhausted IDX's claims process. Claims may be submitted electronically or in paper format. Any Settlement Class Member whose Reimbursement Claim to IDX is rejected for failure to submit a claim within IDX's required time period may not submit a Claim for reimbursement under this process. If a Settlement Class Member submitted a timely Reimbursement Claim to IDX and IDX denied the claim for failure to provide sufficient supporting materials, then the loss may not be claimed for reimbursement hereunder.

Settlement Class Members who wish to make a timely and properly supported Claim for reimbursement of Economic Losses related to the Data Incident must provide to the Settlement Administrator the information required to evaluate the claim, including: (a) the Claimant's name and current address; (b) if applicable, a signed copy of IRS Form 14039 along with a statement under penalty of perjury that the form was submitted to the Internal Revenue Service; (c) the bills or invoices documenting the amount of the Claim and proof that the bills or invoices were paid; (d) documentation showing that the claim was submitted to IDX, denied by IDX, and that the IDX claims process was exhausted; and (e) a statement signed under penalty of perjury indicating that: (i) the Economic Losses Time claimed are fairly traceable to the Data Incident; and (ii) the total amount claimed has not been reimbursed by any other person or entity. Third-party documentation of Economic Losses is required to establish a Claim. Economic Losses that are compensated under this Agreement are those that are reasonable and customarily incurred when responding to the type of fraud or identity theft suffered by the Settlement Class Member from the Data Incident.

### **Tell me more about reimbursement of lost time.**

**Reimbursement of Lost Time.** Any Settlement Class Member may submit one or more Claims for reimbursement for Lost Time related to the Data Incident, up to an aggregate total of \$40.00 per Settlement Class Member (which counts towards the \$850.00 aggregate limit for Documented Economic Loss). A Settlement Class Member may submit a Claim regardless of whether the Settlement Class Member takes advantage of the IDX Identity Protection Services Settlement Offering and regardless of whether the Settlement Class Member submits a claim for documented Economic Losses. A Settlement Class Member is eligible for the payment provided in this section in addition to, and on top of, any payment for documented Economic Losses. A Claim for reimbursement of Lost Time must be submitted pursuant to the Reimbursement Form. Third-party documentation of Lost Time is not required to establish a Claim, but you must provide a general description of how the time was spent and how many hours were spent.

## **How To Get Settlement Benefits**

### **How can I enroll in the Credit Monitoring Provider plan?**

To receive the IDX Identity Protection Services Settlement Offering from Conway, Settlement Class Members must submit an Election Form by mail or through the Settlement Website by **February 20, 2023**. The Settlement Administrator will notify you of any deficiencies with respect to your Election Form, and you will have 21 days after such notice is sent to correct those deficiencies. The Settlement Administrator will then issue a final decision on your entitlement to the IDX Identity Protection Services plan.

An Election Form is available at [www.conwaydatasettlement.com](http://www.conwaydatasettlement.com) or by calling 1-888-768-7138. Election Forms are also available by writing to the Settlement Administrator at Conway Data Settlement, PO Box 23309, Jacksonville, FL 32241.

## **How do I obtain reimbursement of economic costs related to the Data Incident?**

For reimbursement of documented Economic Losses related to the Data Incident that have not been reimbursed, up to an aggregate total of \$850.00 in reimbursement per Settlement Class Member, you must read the instructions carefully, fill out the form completely, attach the required documentation, and either submit the form and documentation through the Settlement Website, or mail the form postmarked no later than February 20, 2023, to:

**Conway Data Settlement**  
PO Box 23309, Jacksonville, FL 32241

If you have questions about how to file a claim, call 1-888-768-7138 or go to [www.conwaydatasettlement.com](http://www.conwaydatasettlement.com).

## **How do I obtain reimbursement of lost time related to the Data Incident?**

For reimbursement of Lost Time related to the Data Incident, up to an aggregate total of \$40.00 in reimbursement per Settlement Class Member, you must complete and submit a Reimbursement Form(s) and provide a narrative of what the time was spent on. You can get the Reimbursement Form at [www.conwaydatasettlement.com](http://www.conwaydatasettlement.com) or by calling 1-888-768-7138. For each Reimbursement Form, you must read the instructions carefully, fill out the form completely, attach any required documentation, and either submit the form and documentation through the Settlement Website, or mail the form postmarked no later than February 20, 2023, to:

**Marshall v. Conway Regional Medical Center, Inc., 23CV-20-771**  
PO Box 23309, Jacksonville, FL 32241

If you have questions about how to file a claim, call 1-888-768-7138 or go to [www.conwaydatasettlement.com](http://www.conwaydatasettlement.com).

## **When will I receive my reimbursement payment under the Settlement?**

If you file a timely and valid Reimbursement Form and submit required documentation, the Settlement Administrator will evaluate your claim to confirm your eligibility and calculate your payment amount. The Settlement Administrator will notify you of any deficiencies with respect to your claim, and you will have 21 days after such notice is sent to correct these deficiencies. The Settlement Administrator will then issue a final decision on your claim.

Payments for valid claims will not be made until after the Settlement is finally approved and all appeals and other reviews have been exhausted.

## **What am I giving up as part of the Settlement?**

Unless you exclude yourself, if the Settlement is approved, you cannot sue Conway or be part of any lawsuit against Conway about any of the issues in this Action. All of the decisions by the Court will bind you. The specific claims you are giving up are described in Section 9 of the Settlement Agreement. You will be releasing your claims against Conway and all related people as described in Section 9 of the Settlement Agreement.

The Settlement Agreement is available at [www.conwaydatasettlement.com](http://www.conwaydatasettlement.com) or by calling 1-888-768-7138. The Settlement Agreement describes the released claims with specific descriptions, so please read it carefully. If you have any questions about what this means, you can talk to Settlement Class Counsel, or you can talk to your own lawyer at your own expense.

## **The Lawyers Representing You**

### **Do I have a lawyer in the case?**

Yes, you do have a lawyer in the case. The Court appointed the law firms of Cohen & Malad, LLP, and Branstetter, Stranch, & Jennings, PLLC and the Johnson Firm to represent you and the Settlement Class. These firms are called “Settlement Class Counsel.” You will not be charged by these lawyers for their work on this case. If you want to be represented by your own lawyer, you may hire one at your own expense.

### **How will the lawyers be paid?**

Class Counsel will ask the Court for Conway to pay for reasonable attorneys’ fees and expenses, along with a Class Representative service award. The Court will decide the amount of attorneys’ fees, expenses, and service awards. Any attorneys’ fees and expenses approved will be paid by Conway and will not reduce the benefits provided to you or the other Settlement Class Members under the proposed Settlement.

## **Excluding Yourself From The Settlement**

### **What does it mean to exclude myself from the Settlement?**

If you want to keep the right to sue or continue to sue Conway about the legal claims in this case, you must take steps to exclude yourself from the Settlement Class. Excluding yourself is also called “opting out” of the Settlement.

### **If I exclude myself, can I get anything from this Settlement?**

If you exclude yourself, you cannot get anything from the Settlement. If you exclude yourself, you may not apply for any benefits under the proposed Settlement and you cannot object to the proposed Settlement.

### **If I do not exclude myself, can I sue later?**

If you do not exclude yourself, you cannot sue later. Unless you exclude yourself, you give up the right to sue Conway for all of the claims that this proposed Settlement resolves.

### **How do I exclude myself from the Settlement?**

To exclude yourself from the proposed Settlement, you must timely submit, by U.S. Mail, written notice of your intent to opt-out of the Settlement to the Settlement Administrator’s designated address established for opt-outs. The written notice must clearly manifest your intent to be excluded from the Settlement Class in *Marshall v. Conway Regional Medical Center, Inc.*, 23CV-20-771, and must be signed by you. You can only request exclusion for yourself; you cannot request to exclude any other member of the Settlement Class. Mass opt-outs are not permitted.

To be effective, written notice must be postmarked by December 21, 2022 and mailed to:



**Conway Data Settlement**  
PO Box 23309, Jacksonville, FL 32241

You cannot ask to be excluded on the phone, by email, or on the website.

**Objecting to the Settlement**

**How do I tell the Court if I do not like the Settlement?**

If you are a Settlement Class Member, you can object to or comment on the Settlement, Settlement Class Counsel's request for attorneys' fees and expenses, and/or the Settlement Class Representative's request for a service award. To object, you must state in writing that you object to the Settlement, and include the following information in your written objection:

1. The name of the Action (*Marshall v. Conway Regional Medical Center, Inc.*, 23CV-20-771);
2. Your full name, mailing address, telephone number, and e-mail address;
3. A statement of the basis on which you claim to be a Settlement Class Member;
4. A written statement of all grounds for your objection, accompanied by any legal support for the objection, and any evidence you wish to introduce in support of the objection;
5. The identity of all counsel, if any, representing you, including any former or current counsel who may claim entitlement to compensation for any reason related to the objection to the Settlement or the Fee Application;
6. A statement confirming whether you intend to personally appear and/or testify at the Final Approval Hearing and the identification of any counsel representing you who intends to appear at the Final Approval Hearing;
7. A list of any persons who will be called to testify at the Final Approval Hearing in support of the objection; and
8. Your signature signed under oath and penalty of perjury or, if legally incapacitated, the signature of your duly authorized representative (along with documentation setting forth such legal incapacitation and representation) (an attorney's signature is not sufficient).

Failure to include this information may be grounds for the Court to disregard your objection.

To submit an objection, send a letter the Court either by: (a) mailing it to the Faulkner County Circuit Clerk, PO Box 9, Conway, AR 72033, or; (b) filing the objection in person at 724 Locust Ave. Conway, AR 72034. Mailed objections must be filed or postmarked on or before the Objection Deadline, which is December 21, 2022.

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

You can object to the Settlement when you wish to remain a Settlement Class Member and be subject to the Settlement but disagree with some aspect of the Settlement. An objection allows your views to be heard in Court.

Excluding yourself from the Settlement Class means that you are no longer a Settlement Class Member and do not want the Settlement to apply to you. Once you are excluded, you lose the right to receive any benefits from the Settlement or to object to any aspect of the Settlement because the case no longer affects you.

## **Final Approval Hearing**

### **When and where will the Court decide whether to approve the Settlement?**

The Court will hold a Final Approval Hearing at 9:00 AM, on February 7, 2023, at the Faulkner County Arkansas Circuit Court, 510 S. German Lane, Conway, AR 72034, or by remote videoconference. At the Final Approval Hearing, the Court will consider whether the proposed Settlement is fair, reasonable, and adequate. The Court may also consider Class Counsel's request for attorneys' fees and expenses, and the service award. If there are objections, the Court will consider them. After the Final Approval Hearing, the Court will decide whether to approve the proposed Settlement and how much to award to Class Counsel as fees and expenses, and the service awards. You do not need to attend.

The Final Approval Hearing may be moved to a different date or time without additional notice, so if you wish to attend, it is recommended that you periodically check [www.conwaydatasettlement.com](http://www.conwaydatasettlement.com) and the Court docket in this case through the website [https://caseinfo.arcourts.gov/cconnect/PROD/public/ck\\_public\\_qry\\_main.cp\\_main\\_idx](https://caseinfo.arcourts.gov/cconnect/PROD/public/ck_public_qry_main.cp_main_idx) to confirm the date of the Final Approval Hearing.

### **Do I have to come to the hearing?**

You do not have to attend the hearing. Class Counsel will answer any questions the Court may have. However, you are welcome to attend the hearing at your own expense. If you submit a written objection, you do not have to come to the Fairness Hearing to raise your objection. As long as you timely mailed your written objection, the Court will consider it. You also may pay your own lawyer to attend the Final Approval Hearing, but their attendance is not necessary.

### **May I speak at the hearing?**

Yes, you may speak at the hearing. If you would like to do so, you must indicate your intent to personally appear and/or testify at the Final Approval Hearing, and identify any counsel representing you who intends to appear at the Final Approval Hearing, when providing written notice of your objection as noted above regarding how to object to the Settlement.

## **If You Do Nothing**

### **What happens if I do nothing at all?**

If you are a Settlement Class Member and you do nothing, you will be legally bound by the Settlement, but you will not receive the Credit Monitoring Provider Settlement Offering, or reimbursement for Economic Losses and Lost Time related to the Data Incident. You will not be able to bring a lawsuit, continue a lawsuit, or be a part of any other lawsuit against Conway about the claims in this case.

If you would like to request benefits under the Settlement, you must follow the instructions described in the sections above.

## Getting More Information

### **How do I get more information about the proposed Settlement?**

This notice summarizes the proposed Settlement. More details are included in the Settlement Agreement. You can get a copy of the Settlement Agreement at [www.conwaydatasettlement.com](http://www.conwaydatasettlement.com). You also may write with questions to the Settlement Administrator, at [info@conwaydatasettlement.com](mailto:info@conwaydatasettlement.com) or Conway Data Settlement, PO Box 23309, Jacksonville, FL 32241. You can access Reimbursement and Election Forms and review additional documents on the Settlement Website. You can also request to receive Reimbursement and Election Forms, a copy of the Settlement Agreement, and a detailed notice by mail by calling the toll-free number, 1-888-768-7138.