

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION

THOMAS M. WILSON, SR.,  
DANIEL HALSEY as ADMINISTRATOR  
of the ESTATE OF TAMARA HALSEY,  
JASON GRAZUTIES, SANDRA  
SHEPPARD, PAMELA BRADLEY, as  
Executrix of the Estate of ROBERT BRADLEY,  
DEBORAH MARTIN, as Executrix of the  
Estate of ARVADA MARTIN, LISA NEW,  
and ROBERT STRATTON, individually and on  
behalf of all others similarly situated,

Plaintiffs,

Civil Action No. 2:16-CV-05279  
Judge John T. Copenhaver, Jr.

v.

MRO CORPORATION,  
CIOX HEALTH, LLC, and  
MEDI-COPY SERVICES, INC,

Defendants.

**FINAL APPROVAL ORDER**

This matter comes to the Court for final approval of a class action settlement pursuant to Federal Rule of Civil Procedure 23(e)(1). Previously, the Court conditionally certified a settlement class by a Preliminary Approval Order entered on March 5, 2024, ECF No. 315, appointing class counsel and authorizing the parties to give notice to and solicit claims from class members in conformance with the claims-made settlement process outlined in the parties' settlement agreement.

The parties now ask the Court for final approval of the class settlement, as requested in the following documents:

1. The parties' Amended Joint Motion for Preliminary Approval of Settlement and Certification of a Settlement Class, October 26, 2023, ECF No. 294;

2. The parties' Memoranda of Law in Support, ECF Nos. 295, 301, and 304;
3. The Plaintiffs' Amended Motion for Award of Attorneys' Fees, Reimbursement of Costs and Incentive Awards, filed on June 21, 2024, ECF No. 323; and
4. The Plaintiffs' Motion for Final Approval of the Proposed Class Settlement and for Final Approval of Attorney Fees, Costs, and Incentive Awards, July 1, 2024, ECF No. 325, attaching the declaration of Noah Fiori as an Analyst at American Legal Claim Services, LLC, the "Claims Administrator," ECF No. 325-1, summarizing the claims process as of July 1, 2024.

Whereupon, the parties' motions for final approval of the class settlement and attorneys' fees were brought on for hearing on July 11, 2024. The Court directed the parties to file a copy of the Claims Report and continued the hearing to August 27, 2024. ECF No. 328. The parties produced the Claims Report to the Court by e-mail on August 7, 2024, ECF No. 331, which was further described and summarized in the parties' Joint Submission Regarding Claims Administrator's Report filed on August 9, 2024, ECF No. 332, and a further Joint Submission Regarding First Revised Claims Administrator's Report filed on September 20, 2024, ECF No. 341, after which the Court held a continued final approval hearing on October 11, 2024. On December 11, 2024, Class Counsel filed a Submission of Updated Claims Administrator's Summary of Claims and Payment Report, ECF No. 345, providing information related to the updated Claims Report and identifying the proposed *cy pres* recipients, per the Court's request. On December 12, 2024, the Parties appeared for a Final Approval hearing, during which the Court directed the Parties to revise and re-submit the Final Approval Order to reflect all revisions to and clarifications of claims payment procedures that have occurred since the parties initially moved for final approval on July 1, 2024. Because of those revisions and clarification, the Court requested

that all counsel sign the re-submitted Final Approval Order to indicate agreement to all changes that have occurred since July 1, 2024.

Having reviewed the parties' written submissions as described above, the arguments of counsel on July 11, 2024, October 11, 2024, December 12, 2024, and the entire record of this action, the Court hereby **ORDERS** as follows:

**I. FINDINGS OF FACT**

**A. Procedural History**

1. Plaintiffs Thomas M. Wilson, Sr. Daniel Halsey, as Administrator of the Estate of Tamara Halsey, and Jason Grazuties filed a proposed class action Complaint in the Circuit Court of Kanawha County, West Virginia on April 28, 2016, naming MRO Corporation ("MRO"), Ciox Health, LLC ("Ciox"), and Medi-Copy Services, Inc. ("Medi-Copy") as Defendants.

2. Medi-Copy removed the action to this Court based on diversity of citizenship, 28 U.S.C. § 1441, and the Class Action Fairness Act. ECF No. 1, 28 U.S.C. § 1453.

3. Pamela Bradley, as Executrix of the Estate of Robert Bradley, Deborah Martin as Executrix of the Estate of Arvada Martin, Lisa New, and Robert Stratton were joined as Plaintiffs by amendments to the Complaint. ECF Nos. 52, 286.

4. Defendants are vendors which contracted with healthcare providers in West Virginia to provide medical record copying services in response to requests from individuals for copies, known as requests for releases of information ("ROI requests").

5. The costs providers may charge for copying medical records are governed by statute, West Virginia Code §§ 16-29-1, *et seq.*, which was amended effective June 6, 2014, July 6, 2017, and July 8, 2021.

6. Plaintiffs allege, for themselves and others similarly situated, that Defendants overcharged for copying medical records in response to ROI requests submitted to West Virginia medical providers in violation of West Virginia Code § 16-29-2 and the West Virginia Consumer Credit and Protection Act, W. Va. § 46A-6-101. ECF No. 286, seeking damages and injunctive relief. ECF No. 286 pp. 10–13.

7. During the course of the litigation, the parties negotiated a proposed class settlement which would require approval from this Court under Federal Rule of Civil Procedure 23(e)(1).

8. On July 5, 2017, the parties filed a Joint Motion for Preliminary Approval of Settlement and Certification of a Settlement Class, ECF No. 166, attaching an executed Settlement Agreement for the Court’s consideration, ECF No. 166-1.

9. Following submission of the Joint Motion, the parties continued to negotiate the terms of the proposed settlement agreement to address concerns raised by certain non-party objectors and proposed intervenors, resulting in the submission of an Amended Joint Motion for Preliminary Approval of Settlement and Certification of a Settlement Class, ECF No. 294, attaching an Amended Settlement Agreement on October 26, 2023, ECF No. 294-1, First Amendment to the Amended Settlement Agreement, ECF No. 301-1, Revised Second Amendment to the Amended Settlement Agreement, ECF No. 312-1, and Third Amendment to Amended Settlement Agreement, ECF No. 314-1 (collectively, the “Settlement Agreement”).

10. On March 5, 2024, the Court conditionally certified the proposed settlement class outlined in the Settlement Agreement, appointing class counsel, and authorizing the parties to give notice to the proposed settlement class and to engage a claims administrator to solicit claims from

class members in execution of the settlement process outlined in the Settlement Agreement. ECF No. 315.

11. The Court further scheduled a hearing on July 11, 2024 to consider the parties' request for final approval of the settlement and directed the parties, among other things, to serve notice consistent with the class settlement process outlined in the Settlement Agreement. ECF No. 315.

12. At the request of the Court, the parties made a further Joint Submission Regarding First Revised Claims Administrator's Report on September 20, 2024. ECF No. 341. The Court then held a continued final approval hearing on October 11, 2024.

13. Following the continued final approval hearing on October 11, 2024, the Claims Administrator initiated a supplemental claims-period applicable to Patient Requestors that failed to submit a claim in response to the original Class Notice, by mailing the amended Proof of Claim attached as Exhibit 2 to the Joint Submission Regarding First Revised Claims Administrator's Report filed on September 20, 2024. ECF No. 341-2.

***B. Proposed Class Description, Subclasses, and Class Period***

14. Under the Settlement Agreement, the proposed class definition is as follows:

All Attorneys and Insurance Companies pursuant to written authorization, or Patients who, on one or more occasions during the Class Period, sought, in writing, copies of a patient's medical records from a West Virginia Medical Provider listed in Exhibit A to the Amended Agreement, and had their ROI Request processed and billed by Defendants, and who subsequently (1) paid one or more Defendants for copies of patient medical records and were not reimbursed for same, or (2) reimbursed their legal representative for the costs advanced on their behalf to obtain copies of medical records. Excluded from the Settlement Class are (i) Class Counsel, including their respective law firms during the Class Period, (ii) any and all Persons that paid for the requested copies of medical records pursuant to a specific pricing agreement or a "reduced or negotiated rate," less than or equal to the negotiated per page value identified

for each respective Subclass; (iii) those persons who validly and timely elect to opt out or otherwise exclude themselves from the Settlement Class. Patients and/or clients of Class Counsel who are eligible Claimants pursuant to the terms of the Amended Settlement Agreement shall not be excluded on the basis of their association with Class Counsel.

ECF No. 294-1, p. 10. The class definition is subject to exclusions outlined at ECF 294-1, pp. 19–20, and definitions of the “Class Period,” being “December 1, 2010 through July 5, 2017,” ECF No. 294-1, p. 5, and three categories of class members: Patients, Attorneys, and Insurance Companies. ECF No. 294-1, pp. 4, 8. Collectively, these definitions constitute the “Settlement Class.”

15. The Settlement Class is further divided into four proposed subclasses designated Subclass 1, Subclass 2, Subclass 3, and Subclass 4 (the “Subclasses”), corresponding to the categorization of each class member as a Patient, Attorney, or Insurance Company, the version of West Virginia Code § 16-29-2 applicable to the class member’s request, and whether the class member paid a retrieval fee. ECF No. 294-1, p. 6.

16. The Defendants agreed to pay reimbursement to class members who presented a “Valid Claim” pursuant to a schedule for Subclass 1, Subclass 2, Subclass 3, and Subclass 4, without interest. ECF No. 294-1 pp. 18–19.

17. The Defendants further agreed to pay all costs incurred in providing class notice and all costs of claims administration, ECF No. 294-1 pp. 22–23, as well as attorneys’ fees to Class Counsel, not to exceed \$640,000, and costs by apportionment as provided at *id.* p. 28, and an incentive award of \$5,000 to each named Plaintiff, *id.* p. 29.

18. After reviewing the parties’ Amended Joint Motion, and the submitted documents constituting the Settlement Agreement, the Court determined that the Settlement Class and Subclasses should be conditionally certified based upon the factors outlined under Federal Rule of

Civil Procedure 23(a) and 23(b)(3), finding that (a) the settlement class satisfies the numerosity requirement of Rule 23(a); (b) common issues of law and fact relating to whether the Defendants charged a fee in excess of that allowed by W. Va. Code §§ 16-29-1, *et seq.*; (c) the named Plaintiffs' claims are typical of the claims of the putative class members; (d) the named Plaintiffs are adequate representatives of the class; (e) the common issues between the named Plaintiffs and putative class members predominate; and (f) class treatment is superior to individual actions to promote efficiency and uniformity of judgment. ECF No. 315, p. 4.

19. The Court then entered a Preliminary Approval Order conditionally certifying the proposed class and settlement class, preliminarily approving the settlement, appointing Class Counsel, authorizing the parties to send the class notice, and scheduling a final hearing for July 11, 2024. ECF No. 315.

### ***C. Claims Process***

20. Following preliminary approval, the Defendants prepared lists of invoices for all ROI requests processed by one or more of the Defendants during the Class Period for records from any "West Virginia Medical Provider," with the exception of "WVU Medicine Entities," as those terms are defined in the Settlement Agreement, identifying all contact information supplied by the requestors in their ROI requests (the "Class Lists"). The Class Lists included a total of 203,171 records of invoices. ECF No. 325-1 ¶ 3.

21. The parties engaged American Legal Claim Services, LLC ("ALCS," or the "Claims Administrator") to give the proposed notice to potential class members and to administer via the submission of proofs of claims.

22. Copies of the postcard notice and proof of claim forms provided to potential class members, identified in the Defendants' Class Lists, were attached as Exhibit A (the "Class

Notice”) and Exhibit B (the “Proof of Claim”) to a Declaration signed by ALCS Analyst Noah Fiori. ECF 325-1.

23. Mr. Fiori reported that upon receiving the Class Lists from Defendants, the Claims Administrator mailed the Class Notice to 20,751 individual requestors that had ROI requests processed by one or more of the Defendants during the Class Period. ECF No. 325-1 ¶¶ 3–5.

24. In issuing notices, the Claims Administrator provided the Class Notice to potential class members, which included requestors who potentially could have made an “Eligible Request” during the class period, even if the Defendants’ ROI request records indicated that the requestors may be ineligible for payment. ECF No. 332 ¶ 5.

25. “Eligible Requests,” as defined at ECF 294-1, p. 7, include all of Defendants’ records of ROI requests by potential class members during the Class Period.

26. Among the 20,751 Class Notices mailed, 5,622 were returned by USPS as of the date of Mr. Fiori’s declaration, of which 1,985 notices were re-mailed to updated addresses with 2,639 ultimately deemed undeliverable, for an overall delivery rate of 82.47%. ECF No. 325-1 ¶¶ 6–7.

27. The Class Notice instructed those who wished to opt out of the settlement to write to the Claims Administrator stating that the class member does not wish to participate by June 18, 2024. ECF No. 325-1 ¶ 10.

28. The Claims Administrator received seven (7) requests for exclusion, of which four (4) were duplicates. ECF No. 325-1 ¶ 10.

29. The Class Notice also informed potential class members that they have a right to object to the settlement by June 18, 2024. No objections were received. ECF No. 325-1 ¶ 11.

30. In the Joint Submission Regarding First Revised Claims Administrator's Report filed on September 20, 2024 and during the continued final approval hearing on October 12, 2024, the parties reported that they have agreed to provide a simplified supplemental notice and proof of claim to Patient Requestors who did not respond to the original solicitation of claims, providing a second opportunity for individual Patients to submit claims. ECF No. 341-2.

31. On October 9, 2024, the renewed Notice and Proof of Claim was mailed to Patient Requestors who failed to submit a claim in response to the original Class Notice. A renewed claim period of 30 days followed the transmission of the renewed Notice to such Patient Requestors.

32. During the supplemental claim period, 152 Patients submitted claims for 168 Eligible Requests that were approved for payment in the total amount of \$2,272.84.

***D. Final Approval Hearing and Claims Report Submissions***

33. Pursuant to the Preliminary Approval Order, the parties' request for final approval of the settlement and attorneys' fees and costs was brought on for hearing on July 11, 2024, pursuant to Rule 23(e)(2), upon notice duly given to counsel of record, ECF No. 315 ¶ 8, and to class members by the Claims Administrator, ECF No. 325-1 Ex. A, p. 11. Counsel appeared to present oral argument in support of final approval.

34. During the hearing, the parties represented that the Claims Administrator would submit a "Claims Report" summarizing the claims process at the conclusion of the claim period.

35. The Court then directed the parties to file the Claims Report and continued the final approval hearing to August 27, 2024, in the event further hearing is needed following the parties' further submissions pertaining to the Claims Report. ECF No. 328.

36. The parties produced the Claims Report to the Court by e-mail on August 7, 2024, ECF No. 331, which was further described and summarized in the parties' Joint Submission Regarding Claims Administrator's Report filed on August 9, 2024, ECF No. 332.

37. According to the Claims Report, the number of unique "Claimants," ECF No. 294-1 p. 5, that submitted claims was 238, comprising 107 individual Patient Claimants, *id.* p. 8, 49 Attorney Claimants, *id.* p. 4, 32 Insurance Company Claimants, *id.* p. 8, and 50 Claimants who could not be matched with an Eligible Request. ECF No. 332-2.

38. Among the 238 unique Claimants, 188 unique Claimants submitted 11,467 claims that could be connected to Eligible Requests. ECF Nos. 332 ¶¶ 8, 11, 332-1.

39. Of the 188 unique Claimants that submitted claims matched to Eligible Requests, 86 unique Claimants had their claims approved, comprising approximately 33 individual Patient Claimants, 38 Attorney/law firm Claimants, and 15 Insurance Company Claimants. ECF Nos. 332 ¶ 9, 332-1.

40. The Claims Administrator received 48,653 claims out of 203,171 records of invoices identified in the Defendants' Class Lists, for an overall "take rate" of 23.95%. ECF Nos. 325-1 ¶ 3, 332-1.

41. The Claims Report shows that 6,418 claims have been approved for payment to 86 unique Claimants for a total payment amount of \$162,171.71. ECF No. 332-2.

42. In total, 5,049 claims for Eligible Requests were not approved for payment by the Claims Administrator for reasons that include: (1) the Claimant submitted a duplicate claim for the same request, (2) no per-page fees were charged to the requester, (3) the per-page fees charged to the requester were less than the negotiated amount, (4) the invoice for the Eligible Request was

unpaid, and (5) the Claimant was excluded from the settlement class. ECF Nos. 332 ¶¶ 12–13, 332-1.

43. By order dated August 21, 2024, the Court suggested that the parties reconsider the manner of payout, except for the 86 Claimants who have already proved their claims, and asked the parties to inform the Court on or before September 6, 2024, of any amended resolution. ECF No. 334.

44. Following a status conference on August 27, 2024, the Court issued an order directing the parties to submit an analysis of a revised Claims Report. ECF No. 337.

45. Pursuant to the Court’s suggestion the parties reported that they reconsidered the manner of payout and agreed to import additional claims from several Attorney Claimants on behalf of their former clients, who were patients at the medical facilities within the putative class, and the Claims Administrator audited the claims process. ECF No. 341.

46. After importing these additional claims and completing the audit, the Claims Administrator prepared a First Revised Claims Report. ECF No. 341.

47. The First Revised Claims Report shows that 8,134 claims were approved for payment to 733 unique Claimants, comprising 664 individual Patient Claimants, 46 Attorney/law firm Claimants, and 23 Insurance Company Claimants, with a total payout for approved claims of \$233,514.00. ECF No. 341.

48. On December 11, 2024, Class Counsel filed a Submission of Updated Claims Administrator’s Summary of Claims and Payment Report, ECF No. 345, which attached a summary page for the Second Revised Claims Report, ECF No. 345-1.

49. The Second Revised Claims Report provides that 8,303 claims were approved for payment to 3,066 unique Claimants, comprising 3010 individual Patient Claimants, 36

Attorney/law firm Claimants, and 20 Insurance Company Claimants, with a total payout for approved claims of \$251,417.34.

50. As discussed during the continued Final Approval hearing held on December 12, 2024, the Second Revised Claims Report incorrectly misclassified the requests for which Patient Claimants that had reimbursed Attorney Requestors as Subclass 2, rather than Subclass 3, resulting in an incorrect reimbursement calculation. Specifically, the Claims Administrator applied the patient rate used for Subclass 2 in calculating the reimbursement rather than the attorney rate used for Subclass 3. As provided in Section I(z) and Section I(aa) of the Settlement Agreement, the requestor-type, not the claimant-type, dictates the Subclass. The fact that a Patient Claimant reimbursed an Attorney Requestor for an ROI Request made by an Attorney does not alter the Subclass classification or method by which reimbursement for that ROI Request is determined.

51. On December 12, 2024, the Claims Administrator issued the Third Revised Claims Report providing that 8,297 claims were approved for payment to 3,060 unique Claimants, comprising 3004 individual Patient Claimants, 36 Attorney/law firm Claimants, and 20 Insurance Company Claimants, with a total payout for approved claims of \$218,837.19. A copy of the Third Revised Claims Report is attached hereto as **Exhibit 1**.

52. The Third Revised Claims Report states that the 8,297 claims approved for payment include 68 claims for \$679.12 to Patient Claimants that cannot be located, 47 of whom are minors, and 137 claims for \$1,960.14 to Patient Claimants that are deceased.

***E. Issue Pertaining to the Distribution of Funds to Attorneys***

53. During the claims administration, the parties reported that an issue arose regarding clients of plaintiffs' law firms for whom the law firms were the original requestors of the medical records. ECF No. 322 ¶¶ 14–16.

54. Many law firms that received multiple claims notices regarding ROI requests made on behalf of their former clients, asked the Claims Administrator to assist with providing Class Notices and Proof of Claim forms directly to those former clients, each of whom was a patient. Some law firms filed claims on behalf of former clients with the understanding that recovery of payments through this class action would be made by the law firms to their former clients who ultimately paid for their medical records.

55. The Claims Administrator, in consultation with and agreement of all parties, provisionally approved such claims for payment. This issue was raised during the July 11, 2024 hearing, the Court was apprised of the issue and all parties were in agreement to permit the law firms to make the claims on behalf of their clients who paid for the medical records and the law firms would directly reimburse the clients for all money received through this class settlement. The only issue left to be addressed in this regard was the event the law firms could not locate their clients.

56. The parties then agreed that this issue can be addressed by having the Claims Administrator contact the Attorney Claimants to request lists of last known contact information for the Attorneys' former clients to issue payment on all claims the Attorney made on behalf of former clients (where they were reimbursed by their former clients), after which such claims will be reclassified as Patient requests and payment issued directly to the Patients (with a note that the claim was submitted on the Patients' behalf by their former attorneys). ECF No. 341 ¶ 17.

57. The parties represented to the Court that by virtue of this process, they have resolved their dispute concerning the handling of settlement funds for which Attorney Claimants are unable to locate Patients to remit payments. ECF No. 341 ¶ 18.

#### **F. *Cy Pres* Funds**

58. As stated above, the Third Revised Claims Report shows that the claims approved for payment include 68 claims for \$679.12 to Patient Claimants that cannot be located and 137 claims for \$1,960.14 to Patient Claimants that are deceased. The payout for these claims totals \$2,639.26. In addition, other approved claims may not end up being paid because Claimants may not cash the claims payment checks that are mailed to them.

59. The Court thus identified the need for the identification of a recipient for all claims payments that have been approved but that cannot be made to Claimants or that are not ultimately accepted by Claimants.

60. The parties reported to the Court that they agreed to propose the Centers for Consumer Law and Education operating at West Virginia University and Marshall University as the *cy pres* recipients. The parties suggest that the Centers for Consumer Law and Education have interests that reasonably approximate the interests pursued by the class in this action. The parties further suggest that West Virginia University receives 75% and Marshall University receives 25% of the *cy pres* funds.

***G. Attorneys' Fees and Costs and Incentive Award***

61. Plaintiffs' claims were filed under two fee-shifting statutes, including West Virginia Code §16-29-1(d), which specifically provides patients the right to enforce their right to access their own medical records through the methods and process to be followed set forth in the West Virginia Medical Records Act. When those statutory methods are violated, the violator "shall pay any attorney fees and costs, including court costs incurred in the course of such enforcement." W. Va. Code § 16-29-1(d). Further, the provisions of this article "may be enforced by a patient, authorized agent, or authorized representative." W. Va. Code §§ 16-29-1 & 16-29-2. The Plaintiffs also brought claims under Chapter 46A of the West Virginia Consumer Credit and

Protection Act. The West Virginia Consumer Credit and Protection Act also statutorily provides for the payment of attorney fees under West Virginia Code § 46A-5-104.

62. Consistent with the fee shifting statutes and the negotiated resolution of the attorneys' fees and costs claims, on June 21, 2024, Class Counsel submitted an Amended Motion for Award of Attorneys' Fees, Reimbursement of Costs and Incentive Awards, ECF No. 323, attaching declarations by each of the appointed Class Counsel William M. Tiano, ECF No. 322-1, Stephen P. New, ECF No. 322-2, Amanda Taylor, ECF No. 322-3, Steven S. Wolfe, ECF No. 322-4, D. Adrian Hoosier, II, ECF No. 322-5, and a supporting Memorandum of Law, ECF No. 324.

63. Mr. Tiano states that the value of his law firm's fees is \$333,457.50 and \$7,339.86 in costs incurred in the representation. ECF No. 323-1.

64. Mr. New states that the value of his law firm's fees is \$50,120.00 and \$6,751.98 in costs incurred in the representation. ECF No. 323-2.

65. Ms. Taylor states that the value of his law firm's fees is \$42,400.00 and \$20.96 in costs incurred in the representation. ECF No. 323-3.

66. Mr. Wolfe states that the value of his law firm's fees is \$139,807.50 and \$623.36 in costs incurred in the representation. ECF No. 323-4.

67. Mr. Hoosier states that the value of his law firm's fees is \$50,160.00 and \$1,984.51 in costs incurred in the representation. ECF No. 323-5.

68. Class Counsel also request approval of an incentive or service award of \$5,000.00 per named Plaintiff. ECF No. 324, p. 7.

## **II. CONCLUSIONS OF LAW**

69. This Court has subject matter jurisdiction over this matter under 28 U.S.C. § 1332, based on diversity of citizenship and the Class Action Fairness Act.

70. “The claims, issues, or defenses of a certified class—or a class proposed to be certified for purposes of settlement—may be settled, voluntarily dismissed, or compromised only with the court’s approval.” Fed. R. Civ. P. 23(e).

71. There are five requirements for obtaining approval of a proposed class action settlement. Fed. R. Civ. P. 23(e)(1)–(5).

72. First, “The parties must provide the court with information sufficient to enable it to determine whether to give notice of the proposal to the class.” Fed. R. Civ. P. 23(e)(1)(A).

73. Second, “If the proposal would bind class members, the court may approve it only after a hearing and only on finding that it is fair, reasonable and adequate” based on various factors discussed below. Fed. R. Civ. P. 23(e)(2).

74. Third, “The parties seeking approval must file a statement identifying any agreement made in connection with the proposal.” Fed. R. Civ. P. 23(e)(3).

75. Fourth, “If the class action was previously certified under Rule 23(b)(3), the court may refuse to approve a settlement unless it affords a new opportunity to request exclusion to individual class members who had an earlier opportunity to request exclusion but did not do so.” Fed. R. Civ. P. 23(e)(4).

76. Fifth, “Any class member may object to the proposal if it requires court approval under this subdivision (e).” Fed. R. Civ. P. 23(e)(5).

77. The Court concludes that each of the requisite procedures has been satisfied as provided below.

**A. Notice to the Class**

78. “The court must direct notice in a reasonable manner to all class members who would be bound by the proposal if giving notice is justified by the parties’ showing that the court

will be able to: (i) approve the proposal under Rule 23(e)(2); and (ii) certify the class for purposes of judgment on the proposal.” Fed. R. Civ. P. 23(e)(1)(B).

79. The Court previously concluded that it was provided with information sufficient to enable it to determine whether to give notice of the proposal to the Settlement Class and, thus, found that the proposed Class Notice constituted the best notice practicable under the circumstances, was reasonably calculated to communicate actual notice of the litigation and proposed settlement to persons in the Settlement Class, and was due and sufficient notice to all persons entitled to notice of the settlement of this action. ECF No. 315 ¶ 10.

80. The Court now finds that the Class Notice was properly given to class members, consistent with the parties’ proposal.

81. The Court is satisfied that the Class Notice campaign described by Mr. Fiori was the best notice practicable under the circumstances and was reasonably calculated to communicate actual notice of the litigation and the proposed settlement to persons in the Settlement Class, in light of the Defendants’ records for generating the Class Lists, the number of postcard notices mailed, the number of returned mail postcards, attempts to re-mail for returned mail postcards, the “take rate” of claims which was in line with the typical rate for consumer class actions, and considering that the Class Period dates back to ROI requests from December 1, 2010.

82. The Court finds that the method of notice to potential class members was reasonably calculated to apprise potential class members in the Settlement Class of the settlement such that the settlement and the Court’s final judgment is binding on all class members, whether or not they received actual notice of the settlement and final judgment.

83. Under the circumstances, it is fair and reasonable to make the Settlement Agreement and its release of claims binding on all class members in the Settlement Class.

84. Accordingly, the Court concludes that notice was properly given to all potential class members of the proposed class settlement.

**B. *Approval of the Proposal***

85. To determine whether to approve the proposal, the Court must consider various factors: whether “(A) the class representatives and class counsel have adequately represented the class; (B) the proposal was negotiated at arm’s length; (C) the relief provided for the class is adequate, taking into account (i) the costs, risks, and delay of trial and appeal; (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims; (iii) the terms of any proposed award of attorney’s fees, including timing of payment; and (iv) any agreement required to be identified under Rule 23(e)(3); and (D) the proposal treats class members equitably relative to each other.” Fed. R. Civ. P. 23(e)(2).

86. “Such approval is required to ensure that any settlement reached is consistent with the plaintiff’s fiduciary obligations to the class.” *Muhammad v. Nat’l City Mortg., Inc.*, No. CIV.A. 2:07-0423, 2008 WL 5377783, at \*3 (S.D. W. Va. Dec. 19, 2008).

87. “The Fourth Circuit Court of Appeals utilizes a bifurcated analysis for class action settlements, separating the inquiry into the fairness of the settlement from the inquiry into its adequacy. In assessing the fairness of a proposed settlement, the court must considering the following four factors: (1) the posture of the case at the time settlement was proposed; (2) the extent of discovery that had been conducted; (3) the circumstances surrounding the negotiations; and (4) the experience of counsel in the area of class action litigation.” *Id.* (citing *In re Jiffy Lube Sec. Litig.*, 927 F.2d 155, 159 (4th Cir. 1991)).

***i. Adequacy of Representation***

88. The Court previously concluded that Class Counsel and the class representatives adequately represent the class. ECF No. 315. The Court is satisfied by the explanation of legal services provided and the experience, reputation, and the ability of Class Counsel in consideration of the skill required to properly perform the legal services rendered. ECF Nos. 322-1, -2, -3, -4, and -5.

***ii. Proposal Negotiated at Arm's Length***

89. The Court concludes that the proposal was negotiated at arm's length without collusion between the parties.

90. First, courts should consider the stage of the current litigation and the amount of discovery that the parties have completed. *Jiffy Lube Sec. Litig.*, 927 F.2d at 159. This factor assists the court in evaluating whether the plaintiff and his counsel have sufficiently developed the case such that they can appreciate the merits of the claims. *In re Serzone Prods. Liab. Litig.*, 231 F.R.D. 221, 244 (S.D. W. Va. 2005) (Goodwin, J.). "There is, however, no minimum or definitive amount of discovery that must be undertaken." *Id.* (citing *Jiffy Lube*, 927 F.2d at 159).

91. At the time the parties originally proposed a class settlement in 2017, the case had been developed for nearly one year through motion practice, briefing, and argument, and a new statutory amendment to W. Va. Code §§ 16-29-1, -2 was adopted by the West Virginia Legislature that, in effect, resolved the Plaintiffs' contentions with respect to charges for electronic medical record copying, mooted Plaintiffs' request for injunctive relief. Moreover, the parties conducted extensive discovery on the merits of the Plaintiffs' claims, as detailed in the parties' Memorandum of Law in Support of the Joint Motion. ECF Nos. 148, 154, 167, pp. 7–10. Therefore, the Court is satisfied that the first two *Jiffy Lube* factors weigh in favor of approval.

92. Second, absent evidence to the contrary, the Court may presume that settlement negotiations were conducted in good faith and that the resulting agreement was reached without collusion. Newberg on Class Actions § 11.28 at 1159 (3d ed. 1992); see *Polar Int'l Brokerage Corp. v. Reeve*, 187 F.R.D. 108, 112 (S.D.N.Y. 1999). Courts determine whether the discussions were “hard fought and always adversarial.” *S.C. Nat'l Bank v. Stone*, 139 F.R.D. 325 (D.S.C. 1991).

93. The original proposed settlement agreement, ECF No. 166-1, resulted from negotiations over a six-week period following mediation on April 27, 2017. *Id.* at p. 10. The parties then re-negotiated the settlement proposal to address concerns raised by counsel to certain objecting non-parties, who were then joined as named Plaintiffs in the Second Amended Complaint. ECF No. 286. The proposal now under consideration resulted from mediated negotiations taking place over the course of the intervening years. ECF Nos. 247, 265. Therefore, the Court is satisfied that the named Plaintiffs who negotiated the proposal under consideration negotiated at arm's length and acted in good faith to advocate for their own interests, and the interests of those similarly situated in the Settlement Class adverse to the interest of Defendants, in discussions that were hard fought and always adversarial.

94. Third, the opinion of Class Counsel, with substantial experience in litigation of similar size and scope, is an important consideration. “When the parties’ attorneys are experienced and knowledgeable about the facts and claims, their representations to the court that the settlement provides class relief which is fair, reasonable and adequate should be given significant weight.” *Rolland v. Cellucci*, 191 F.R.D. 3, 10 (D. Mass. 2000); see also *In re Compact Disc Litig.* 216 F.R.D. at 212.

95. Here, Class Counsel are skilled and experienced in class action litigation, have served as class counsel in several cases, are experienced in the complex legal issues presented by this case, and have researched the outcomes from similar class actions concerning medical record copying charge lawsuits in other jurisdictions. ECF No. 324, pp. 10–12. The Court is satisfied that this factor also weighs in favor of approval.

***iii. Adequacy of Relief***

96. The Court concludes that the class settlement set forth in the Settlement Agreement is within the range of possible settlements suitable for final approval as fair, just, equitable, reasonable, adequate, and in the best interest of the Settlement Class.

97. In assessing the adequacy of a proposed settlement, the Court must consider the following five factors: (1) the relative strength of the plaintiffs’ case on the merits; (2) the existence of any difficulties of proof or strong defenses the plaintiffs would likely encounter if the case were to go to trial; (3) the anticipated duration and expense of additional litigation; (4) the solvency of the defendants and the likelihood of recovery on a litigated judgment; and (5) the degree of opposition to the settlement. *Jiffy Lube*, 927 F.2d at 159.

98. “The most important factor to be considered in determining whether there has been such clear abuse of discretion is whether the trial court gave proper consideration to the strength of the plaintiff’s case.” *Flinn v. FMC Corp.*, 528 F.2d 1169, 1172 (4th Cir. 1976). “[I]f the settlement offer was grossly inadequate, it can be inadequate only in light of the strength of the case presented by plaintiffs.” *Id.* at 1172 (quoting *City of Detroit v. Grinnell Corp.*, 495 F.2d 448, 455 (2d Cir.1974)).

99. “The essence of any settlement is compromise. A settlement compromising conflicting positions in class action litigation serves the public interest.” *Muhammad*, 2008 WL 5377783, at \*5 (citing *Rolland v. Cellucci*, 191 F.R.D. 3, 11 (D. Mass. 2000))

100. “In evaluating a settlement, the trial court should not decide the merits, or proceed from the assumption that victory is one hundred percent assured and that all claimed damages are properly recoverable.” *Id.* (citing *In re Compact Disc Litig.*, 216 F.R.D. at 211). “A settlement is by nature a compromise between the maximum possible recovery and the inherent risks of litigation. The test is whether the settlement is adequate and reasonable and not whether a better settlement is conceivable.” *In re Warfarin Sodium Antitrust Litig.*, 212 F.R.D. 231, 258 (D. Del. 2002) (citation omitted).

101. The Court has reviewed the parties’ respective memoranda addressing the *Jiffy Lube* factors and is satisfied that the settlement is an adequate compromise of the parties’ conflicting positions on the merits of the Plaintiffs’ claims.

102. In view of the costs, risks, and delay of trial and appeal, the total claim settlement value of \$218,837.19, constitutes adequate relief for the Settlement Class.

103. The method of distributing relief to the class, including the method of processing class-member claims and simplified supplemental notice mailed to Patient Requestors, is effective.

104. The terms of the proposed award of attorneys’ fees and costs, including the timing of payment, are fair and reasonable.

105. The terms of the negotiated incentive award of \$5,000.00 to each named Plaintiff are fair, reasonable and consistent with incentive awards ordered in other class actions. The Court recognizes the named Plaintiffs participated in and contributed to this case for the benefit of the

Settlement Class including participation in pre-suit investigation, responding to interrogatories and requests for production of documents, participation in negotiations and at the final hearing.

106. Finally, the Court has reviewed the Settlement Agreement, comprising the copies of the executed original and amendments thereto, and finds the terms to be adequate.

*iv. Equitable Treatment of Class Members*

107. Upon reviewing the submissions from the Claims Administrator, the Court concludes that class members were given adequate notice of the settlement, their rights to opt out or object to the settlement, and the final approval hearing on July 11, 2024.

108. The Claims Administrator made efforts to re-mail the Class Notice and ROI requestor contact information using the National Change of Address process through the USPS, skip-tracing, and manual updates from requestors. ECF No. 325-1 ¶ 4.

109. The Claims Administrator mailed a simplified supplemental notice and proof of claim to Patient Requestors who did not respond to the original solicitation of claims, providing a second opportunity for individual Patients to submit claims.

110. Class Counsel assisted with the claims process to ensure that potential class members had an adequate opportunity to make a claim, including coordinating with all law firms that submitted claims on behalf of their former-clients to ensure the Claims Administrator had adequate information to locate those clients and provide any payment issued pursuant to this settlement. ECF No. 326, p. 9.

111. The Claims Administrator approved 8,297 claims for payment to 3060 unique Claimants, comprising 3,004 individual Patient Claimants, 36 Attorney/law firm Claimants, and 20 Insurance Company Claimants.

112. Based upon the parties' arguments presented at the final approval hearing and multiple continued final approval hearings, as well as their written submissions, including the Claims Report, First Revised Claims Report, Second Revised Claims Report, and Third Revised Claims Report, and the parties' related supplemental filings summarizing their contents, the Court concludes that the claims process and the proposal for settlement was also fair, just, equitable, reasonable, adequate, in the best interest of the Settlement Class, properly administered in accordance with the terms of the Settlement Agreement, and that Class Members were treated equitably relative to each other.

113. Accordingly, the Court approves the proposal for class settlement and the claims process effectuating the proposal.

***C. Identifying Agreements***

114. Class Counsel and counsel for Defendants identified their agreements by filing them in the docket of this action at ECF Nos. 166-1, 294-1, 301-1, ECF No. 312-1, and ECF No. 314-1. Therefore, the Court concludes this factor also weighs in favor of approval.

***D. New Opportunity to be Excluded***

115. The Court concludes that class members were given adequate notice and an opportunity to be excluded by opting out of the proposed settlement class under the Class Notice. Insofar as the Class Notice was the first notice given of a proposed class settlement, no new opportunity to be excluded is required under Federal Rule of Civil Procedure 23(e)

***E. Class-Member Objections***

116. Prior to the Court's preliminary approval, several potential class members appeared by counsel to object to the proposed settlement.

117. Those objections were addressed through a re-negotiated settlement by which the non-parties were joined as named Plaintiffs, and they joined in the parties' joint motion to approve the Amended Settlement Agreement. Their objections are therefore moot.

118. The Claims Administrator advised potential class members of their right to object to the proposed settlement but received no written objection by the deadline.

119. In the Class Notice, potential class members were also advised of their right to appear at the final approval hearing on July 11, 2024.

120. No objection was heard during the final approval hearing or any of the continued final approval hearings.

121. The original objections now having been mooted by the submission of an amended settlement proposal, and having received no further objection, the Court concludes that this factor weighs in favor of approval.

#### **F. *Cy Pres* Recipients**

122. As noted above, the parties proposed the Centers for Consumer Law and Education operating at West Virginia University and Marshall University as recipients of equal shares of any funds for approved claims that were not able to be paid to Claimants or were not ultimately accepted by Claimants, *i.e.*, *cy pres* funds.

123. Upon considering the parties' proposal, the Court concludes that the Centers for Consumer Law and Education operating at West Virginia University and Marshall University have interests that reasonably approximate the interests pursued by the class in this action. Furthermore, because West Virginia University has a School of Law and thus has a more active Center, the Court believes that it would be equitable that *cy pres* funds be paid 75% to the West Virginia University Center and 25% to the Marshall University Center.

### III. ORDER

124. The Parties have fully complied with the Court's Preliminary Approval Order. Based on the foregoing findings, and good cause appearing, **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:**

125. Based upon these findings of fact and conclusions of law, the Court hereby **GRANTS** final approval of the Settlement Agreement and Orders as follows:

- A. The Settlement Agreement, the terms of which are incorporated herein by reference, is hereby approved as fair, just, equitable, adequate, reasonable, and in the best interests of the Settlement Class. As such, the parties are directed to consummate the remaining terms of the Settlement Agreement in accordance with its terms.
- B. The Settlement Class defined in this Order is determined and adjudged a final and permanent class for purposes of this action and final judgment. The Settlement Class is defined as all Attorneys and Insurance Companies pursuant to written authorization, or Patients who, on one or more occasions during the Class Period, sought, in writing, copies of a patient's medical records from a West Virginia Medical Provider listed on Exhibit A to the Amended Agreement, and had their ROI Request processed and billed by any of the Defendants, and who subsequently: (1) paid Defendants for copies of patient medical records and were not reimbursed for same, or (2) reimbursed their legal representative for the costs advanced on their behalf to obtain copies of medical records. Excluded from the Settlement Class are (i) Class Counsel, including their respective law firms during the Class Period, (ii) any and all Persons that paid for the requested copies of medical records pursuant to a specific pricing agreement or a "reduced or negotiated rate," less than or equal to the negotiated per page value identified for each respective Subclass, and (iii) those persons who validly and timely elect to opt out or otherwise exclude themselves from the Settlement Class. Patients and/or clients of Class Counsel who are eligible Claimants pursuant to the terms of the Amended Settlement Agreement shall not be excluded on the basis of their association with Class Counsel.
- C. The Settlement Subclasses are defined as follows:
  1. Subclass 1: Any Attorney or Insurance Company, pursuant to a written authorization, or Patient who, on one or more occasions between December 1, 2010 and June 5, 2014, sought, in writing, copies of a patient's medical records from a West Virginia Medical Provider listed on Exhibit A to the Amended Agreement, that were serviced by one of the Defendants and paid a per-page fee to obtain the copies;

2. Subclass 2: Any Patient who, on one or more occasions between June 6, 2014 and July 5, 2017 sought, in writing, copies of his/her medical records from a West Virginia Medical Provider listed on Exhibit A to the Amended Agreement, that were serviced by any of the Defendants and paid a per-page fee to obtain copies;
  3. Subclass 3: Any Attorney or Insurance Company, pursuant to written authorization who, on one or more occasions between June 6, 2014 and July 5, 2017, sought, in writing, copies of a patient's medical records from a West Virginia Medical Provider listed on Exhibit A to the Amended Agreement, that were serviced by any of the Defendants and paid a per-page fee to obtain copies; and
  4. Subclass 4: Any Attorney or Insurance Company, pursuant to written authorization, or Patient who, on one or more occasions sought, in writing, copies of a patient's medical records from a West Virginia Medical Provider listed on Exhibit A to the Amended Agreement, that were serviced by any of the Defendants, and paid a retrieval fee assessed by any Defendant between June 6, 2014 and July 5, 2017.
- D. Class members who timely filed requests to be excluded from the Settlement Class are listed in Exhibit B to the Declaration of the Claims Administrator. ECF No. 325-1. All persons identified therein are hereby excluded from the Settlement Class.
- E. The court awards \$615,945.00 to Class Counsel as fees and \$16,720.67 to Class Counsel for costs and expenses incurred in this action and/or in connection with the administration of the settlement, to be apportioned for payment as 85.90% by or on behalf of Ciox, 12.5% by or on behalf of Medi-Copy, and 1.6% by or on behalf of MRO.
- F. These fees and costs are reasonable and appropriate compensation and reimbursement for Class Counsel's work and expense, which have resulted in the appropriation of monetary benefits that will be provided to Class Members.
- G. The payments of Defendants' respective apportionment of \$615,945.00 to Class Counsel, for attorneys' fees, and of \$16,720.67 to Class Counsel for costs and expenses incurred in this action and/or in connection with the administration of the settlement are hereby approved. No other attorneys' fees, expenses, or costs shall be paid by Defendants.
- H. The fees awarded to Class Counsel amounting to \$615,945 shall be paid by Defendants to Tiano O'Dell, which shall distribute to such fees to Class Counsel, including, The Law Office of Stephen New, Hoosier Law Firm, PLLC, Wolfe, White & Associates, and Taylor, Hinkle & Taylor Inc., pursuant to their fee sharing agreement.

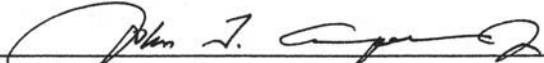
- I. The Court hereby awards \$5,000.00 to each named Plaintiff as fair and reasonable compensation, to be paid by the Defendants in 1/3 apportionment to each named Plaintiff, \$1,666.67 by or on behalf of Ciox, \$1,666.67 by or on behalf of Medi-Copy, and \$1,666.67 by or on behalf of MRO.
- J. The Court hereby awards all *cy pres* funds to the Centers for Consumer Law and Education operating at West Virginia University and Marshall University with the funds paid 75% to the West Virginia University Center and 25% to the Marshall University Center.
- K. A Judgment, in the form attached as Exhibit B shall be entered, which shall dismiss with prejudice:
  - 1. All Released Claims of all Class Members against Defendants and the Released Parties; and
  - 2. All Released Claims shall bind each Class Member and shall declare all Class Members bound by the Release in the Agreement and shall enjoin all Class Members from hereafter prosecuting Released Claims against Defendants or the Released Parties. The Judgment shall bind all Class Members even if they never received notice of the settlement and Agreement, with the exception of Class Members who are excluded from the Settlement Class as provided in ECF No. 325-1 Exhibit B.
- L. Notice of entry of this Order and the ensuing Judgment shall be given to Class Members by Class Counsel. It shall not be necessary to send notice of entry of this Order or the ensuing Judgment to Class Members.
- M. After entry of Judgment, the Court shall retain Jurisdiction over the construction, interpretation, implementation, and enforcement of this Settlement Agreement and over the administration and distribution of the settlement payments.
- N. Defendants shall distribute the settlement payments in accordance with the provisions of the Settlement Agreement and their representations to the Court.
- O. In the event that (1) the Agreement is terminated pursuant to its terms; (2) the Agreement, Preliminary Approval Order, Final Approval Order, and/or Judgment are not approved in all material respects by any Court; or (3) the Agreement, Preliminary Approval Order, Final Approval Order, and/or Judgment are reversed vacated, modified in any material respect by any Court, then (a) all orders entered pursuant to the Settlement Agreement shall be vacated, including, without limitation, the certification of the class and all other relevant portions of this Order, (b) the instant action shall proceed as though the Settlement Agreement had never been reached, with the Parties agreeing to refrain from opposing any resultant

application to further extend the discovery period, and (c) no reference to the Agreement, or any documents related thereto, shall be made for any purpose; provided, however, that if the Parties to the Agreement agree to jointly appeal an adverse ruling and the Settlement Agreement, Preliminary Approval Order, Final Approval Order, and Judgment are upheld on appeal in all material respects, then the Agreement, Preliminary Approval Order, Final Approval Order, and Judgment shall be given full force and effect. In the event of (1), (2), or (3) in this Paragraph, all Parties reserve all of their rights existing prior to the execution of the Settlement Agreement (including, but not limited to, Defendants' right to oppose certification of any class), and the doctrines of res judicata and collateral estoppel shall not be applied.

- P. The Settlement Agreement, the Amended Settlement Agreement including its amendments, the parties' respective briefs and reports, this Order, any of their provisions, any of the documents (including, but not limited to, drafts of the Agreement, Preliminary Approval Order, Final Approval Order, or Judgment), negotiations, or proceedings relating in any way to the Agreement, shall not be construed as or deemed to be evidence of an admission or concession of any kind of any person, including the parties, and shall not be offered or received in evidence, or subject to discovery, in this or any other action or proceeding except in an action brought to enforce its terms or except as may be required by law or court order.

It is **SO ORDERED**.

DATED: February 20, 2025

  
\_\_\_\_\_  
John T. Copenhaver, Jr.  
Senior United States District Judge

**By their signatures below, counsel  
acknowledge agreement to all terms in  
this proposed Final Approval Order.**

**Prepared by:**

/s/Russell D. Jessee  
Russell D. Jessee (W.Va. Bar No. 10020)  
[Russell.Jessee@steptoe-johnson.com](mailto:Russell.Jessee@steptoe-johnson.com)  
Devon J. Stewart (W.Va. Bar No. 11712)  
[Devon.Stewart@steptoe-johnson.com](mailto:Devon.Stewart@steptoe-johnson.com)  
STEPTOE & JOHNSON PLLC  
P.O. Box 1588  
Charleston, WV 25326-1588

/s/Javier F. Flores  
Javier F. Flores (PHV-28579)  
[Javier.Flores@Dinsmore.com](mailto:Javier.Flores@Dinsmore.com)  
Dinsmore & Shohl LLP  
101 Arch Street, Suite 1800  
Boston, MA 02110

***Counsel to CIOX Health, LLC***

**Approved by:**

/s/William M. Tiano  
William M. Tiano (W.Va. Bar No. 4308)  
[wtiano@tolawfirm.com](mailto:wtiano@tolawfirm.com)  
Cheryl A. Fisher (W.Va. Bar No. 6379)  
[cfisher@tolawfirm.com](mailto:cfisher@tolawfirm.com)  
TIANO O'DELL PLLC  
P.O. Box 11830  
Charleston, WV 25339

***Lead Class Counsel***

/s/Stephen P. New  
Stephen P. New, Esq.  
[steve@newlawoffice.com](mailto:steve@newlawoffice.com)  
THE LAW OFFICE OF STEPHEN P. NEW  
114 Main St.  
Beckley, West Virginia 25801

***Class Counsel***

/s/Stephen S. Wolfe  
Steven S. Wolfe, Esq.  
[swolfe@wolfelawwv.com](mailto:swolfe@wolfelawwv.com)  
WOLFE, WHITE & ASSOCIATES  
Post Office Box 536  
Logan, West Virginia 25601

***Class Counsel***

/s/Amanda J. Taylor  
Amanda J. Taylor, Esq.  
[amanda@thtwv.com](mailto:amanda@thtwv.com)  
Taylor, Hinkle & Taylor, Inc.  
115 ½ South Kanawha Street  
Beckley, WV 25801

***Class Counsel***

/s/D. Adrian Hoosier, II  
D. Adrian Hoosier, II, Esq.  
[adrian@hlfwv.com](mailto:adrian@hlfwv.com)  
HOOSIER LAW FIRM, PLLC  
213 Hale Street, STE 100  
Charleston, West Virginia 25301

***Class Counsel***

/s/John R. McGhee, Jr.  
John R. McGhee, Jr. (W.Va. Bar No. 5205)  
jmcghee@kaycasto.com  
KAY CASTO & CHANEY PLLC  
P. O. Box 2031  
Charleston, WV 25327

***Counsel to Medi-Copy Services, Inc.***

/s/Keith E. Whitson  
Keith E. Whitson (W.Va. Bar No. 11585)  
[kwhitson@raineslaw.com](mailto:kwhitson@raineslaw.com)  
Raines Feldman Littrell LLP  
11 Stanwix Street, Suite 1100  
Pittsburgh, PA 15222

***Counsel to MRO Corporation***