

SUPREME COURT
STATE OF NEW YORK MONROE COUNTY
KYRSTEN BAIRE-RODRIGUEZ, *on behalf of herself*
and all others similarly situated,

Plaintiffs,

v.

ST. FRANCIS COLLEGE,

Defendant.

Index No.
E2022006634

CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

This Class Action Settlement Agreement and Release is entered into between and among Plaintiff Kyrsten Baires-Rodriguez, individually and on behalf of all others similarly situated (“Plaintiffs”), and St. Francis College (“Defendant” or “St. Francis”) (collectively, the “Parties”), subject to preliminary and final approval by the Supreme Court State of New York County of Monroe (the “Court”) as required by Article 9 of the Civil Practice Law and Rules;

WHEREAS, the above-captioned action is pending in the Court, alleging, *inter alia*, that St. Francis failed to adequately secure personal identifiable information of its students and employees that may have been compromised in a data security incident which occurred on or about November/December 2018;

WHEREAS, Plaintiffs and Class Counsel believe that the factual and legal claims asserted in the Action are meritorious. Class Counsel has investigated the facts relating to the claims and defenses alleged and the underlying events in the Action, have made a thorough study of the legal principles applicable to the claims and defenses asserted in the Action, and have conducted a thorough assessment of the strengths and weaknesses of the claims in the Action;

WHEREAS, St. Francis asserts numerous legal and factual defenses to the claims made in the Action, and specifically denies each and all of the claims and contentions alleged against it in the Action, and denies all charges of wrongdoing or liability as alleged, or which could be alleged, in the Action;

WHEREAS, the Parties participated in mediation on November 11, 2021 with Hon. Morton Denlow (Ret.) serving as mediator;

WHEREAS, although a settlement was not reached during mediation and the Parties then continued litigating the action, during the subsequent eight months, the Parties continued having numerous verbal and written communications as to settlement;

WHEREAS, on or about August 8, 2022, the Parties reached a settlement and a Confidential Settlement Term Sheet was agreed upon;

WHEREAS, the Plaintiffs and Class Counsel have concluded, after investigation of the facts and after carefully considering the circumstances of the Action, including the claims asserted in the Action, the status of the Action and the possible legal, factual and procedural defenses thereto, that it would be in the best interests of the Settlement Class to enter into this Agreement, which interests include the substantial value to be derived by this Settlement and the interest in avoiding the uncertainties of litigation and assuring that the benefits reflected herein are obtained for the Settlement Class; that the Plaintiffs consider the Settlement set forth herein to be fair, reasonable and adequate and in the best interests of the Settlement Class; and Plaintiffs and Class Counsel believe that the Settlement confers substantial benefits upon the Settlement Class;

WHEREAS, St. Francis, after vigorous, arms-length negotiations, has agreed to provide certain monetary and non-monetary measures in settlement for the benefit of the Settlement Class, as provided in this Agreement;

WHEREAS, St. Francis, despite its belief that it has valid and complete defenses to the claims asserted against it in the Action, has nevertheless agreed to enter into this Agreement to reduce and avoid further expense, inconvenience, and the distraction of burdensome and protracted litigation, and thereby to resolve this controversy, without any admission of wrongdoing or liability whatsoever;

NOW, THEREFORE it is agreed by and between the undersigned on behalf of St. Francis and the Plaintiffs, on behalf of the Settlement Class, that any and all claims made against St. Francis by the Plaintiffs in the Action be settled, compromised and dismissed on the merits and with prejudice and, except as hereafter provided, without costs as to the Plaintiffs or St. Francis, subject to the approval of the Court, on the following terms and conditions.

I. DEFINITIONS

In addition to the terms defined at various points within the Agreement, the following definitions of terms apply throughout the Agreement.

1. “**Action**” means the action captioned *Baires-Rodriguez et al. v. St. Francis College*, Index No. E2022006634 in the Supreme Court of the State of New York, County of Monroe and *Baires-Rodriguez et al. v. St. Francis College*, previously docketed as Index No. 507437/2021 in the Supreme Court of the State of New York, County of Kings.

2. “**Agreement**” or “**Settlement Agreement**” means this agreement.

3. **“Approved Claims”** means Settlement Claims as approved by the Settlement Administrator or found to be valid through the Dispute Resolution process.

4. **“Claim Form”** means the form substantially in the form of Exhibit 1 attached hereto that Settlement Class Members must complete and submit on or before the Claim Deadline to be eligible to receive the benefits contemplated by this Agreement.

5. **“Claim Deadline”** means the last day to submit a timely Claim Form, which will be ninety (90) days after the Notice Deadline.

6. **“Class” or “Class Members”** means all persons who were notified by St. Francis as a result of the data security incident perpetrated against St. Francis on or about November/December 2018.

7. **“Class Counsel”** shall mean Nelson Thomas, Jessica L. Lukasiewicz, and Jonathan W. Ferris of Thomas & Solomon LLP.

8. **“Complaint”** means the operative Class Action Complaint and Demand for Jury Trial filed by Plaintiffs on August 17, 2022 in the Action.

9. **“Data Security Incident”** means the cyber incident that took place against St. Francis on or about November/December 2018.

10. **“Effective Date”** has the meaning ascribed in Paragraph 48 of this Agreement.

11. **“Final Approval Hearing”** means the hearing to determine whether the Settlement of the Action should be given final approval and whether the application for the Class Representative service award should be approved.

12. **“Motion for Final Approval”** is the motion to be filed by the Plaintiffs pursuant to Paragraph 47 of this Agreement.

13. **“Motion for Preliminary Approval”** is the motion to be filed by the Plaintiffs pursuant to Paragraph 38 of this Agreement. This Agreement shall be an exhibit to the Motion for Preliminary Approval.

14. **“Notice(s)”** means the written notices to be sent to the Class pursuant to the Preliminary Approval Order, as set forth in Paragraph 39 of this Agreement.

15. **“Notice Deadline”** means the last day by which Notice must begin issuing to the Class, and will initially occur twenty-one (21) days after entry of the Preliminary Approval Order.

16. **“Objection Deadline”** means the deadline for objections to the Settlement to be specified in the Notices, which date shall be sixty (60) days from the Settlement Postcard Notice and Settlement Electronic Notice is scheduled to be mailed/mailed by the Settlement Administrator.

17. **“Opt-Out Deadline”** means the deadline for requests to opt-out of the Settlement to be specified in the Notices, which date shall be sixty (60) days from the Settlement Postcard Notice and Settlement Electronic Notice is scheduled to be mailed/mailed by the Settlement Administrator.

18. **“Order and Final Judgment”** means an order of the Court granting Final Approval of the Settlement and the corresponding final judgment.

19. **“Party”** or **“Parties”** mean the Plaintiffs, acting on behalf of the Settlement Class, and St. Francis.

20. **“Plaintiff”** or **“Settlement Class Representative”** means Kyrsten Baires-Rodriguez.

21. **“Preliminary Approval Order”** means an order issued by the Court preliminarily approving the Settlement provided for in this Agreement.

22. **“Released Claims”** means any and all claims arising out of the Action and/or the Data Security Incident, including, but not limited to negligence, breach of implied contract, unjust enrichment, violations of applicable state laws, breach of confidence, bailment, and breach of fiduciary duty. As set forth in Paragraph 34, attorneys’ fees and expenses are subject to a binding arbitration and thus are not released until such a determination has been made.

23. **“Settlement”** means the settlement reflected by this Agreement.

24. **“Settlement Court”** or **“Court”** means the Supreme Court of the State of New York, County of Monroe.

25. **“Settlement Administrator”** means American Legal Claim Services LLC or another settlement administrator selected by St. Francis with the consent of the Plaintiffs.

26. **“Settlement Class”** or **“Settlement Class Member”** means all Class Members other than any Settlement Class Opt-Outs.

27. **“Settlement Class Opt-Out”** means any person or entity falling within the definition of the Class who timely and validly submits a request for exclusion from the Settlement Class in accordance with the procedures set forth in Paragraph 46 below and the Settlement Long-Form Notice.

28. **“Settlement Electronic Notice”** refers to the notice to be provided to the Class by electronic mail, without material alteration from Exhibit 2 hereto, in accordance with Paragraph 39(b) below.

29. **“Settlement Long-Form Notice”** refers to the notice to be made available to the Class on the Settlement website maintained by the Settlement Administrator, without material alteration from Exhibit 3 hereto (except where necessary to render it electronically accessible), in accordance with Paragraph 39(c) below.

30. “**Settlement Postcard Notice**” refers to the notice to be provided to the Class by postcard, without material alteration from Exhibit 4 hereto, in accordance with Paragraph 39(b) below.

31. “**St. Francis**” means St. Francis College, and its subsidiaries and affiliates.

32. “**St. Francis Counsel**” means David M. Ross, Esq. of Wilson Elser LLP, 1500 K Street, NW, Suite 330, Washington, D.C. 20005 and Daniel M. Braude of Wilson Elser LLP, 1133 Westchester Avenue, White Plains, NY 10604.

II. SETTLEMENT TERMS

33. Class Benefit. Subject to the terms of this Agreement, St. Francis shall make available the following benefits (none of which are mutually exclusive) to Settlement Class Members who have submitted valid Claim Forms:

(a) Credit Monitoring and Identity Theft Protection Services. Class Members can elect to enroll in Pango Identity Defense Complete identity protection services for a period of three years by submitting the Claim Form by the Claim Deadline. The three years of service is above and beyond any services previously offered by St. Francis following the Data Security Incident. Pango Identity Defense Complete includes credit monitoring from one bureau, dark web monitoring, monthly credit scores, access to credit reports, authentication alerts, high risk transaction monitoring, address change monitoring, and \$1 million in identity theft insurance.

(b) Reimbursement for Out-of-Pocket Losses. Class Members may submit a claim for Out-of-Pocket Losses up to One Hundred-Fifty Dollars and Zero Cents (\$150.00) per Class Member that have not been reimbursed through any other source by submitting the Claim Form by the Claim Deadline.

(i) “Out-of-Pocket Losses” are documented, unreimbursed costs or expenditures incurred by a Class Member arising out of the Data Security Incident, and that the Class Member made reasonable efforts to avoid, or seek reimbursement for, the loss, including but not limited to exhaustion of all available credit monitoring and identity theft insurance.

(ii) Claims for Reimbursement for Out-of-Pocket Losses and Reimbursement for Attested Time are subject to a combined \$150.00 aggregate cap per Class Member.

(c) Reimbursement for Attested Time. Class Members who submit a claim for Out-of-Pocket Losses may also submit a claim for up to four (4) hours of time spent remedying issues related to identity theft directly caused by the Data Security Incident at \$20 an hour by submitting the Claim Form by the Claim Deadline.

(i) Class Members who elect to submit a claim for reimbursement for attested time must provide to the Settlement Administrator the information required to evaluate the claim, including: (i) the Class Member’s name and current address; and (ii) a brief description of the time incurred including the activities undertaken by the Class Member.

(ii) The Settlement Administrator shall have the sole discretion and authority to determine whether the prerequisites have been met in order to award payments for attested time. The Settlement Administrator may contact Class Members to seek clarification regarding any submitted claim prior to determining their validity.

(iii) Claims for Reimbursement for Out-of-Pocket Losses and Reimbursement for Attested Time are subject to a combined \$150.00 aggregate cap per Class Member.

(d) Security Measures. St. Francis will confirm cybersecurity improvements implemented since the Data Security Incident to help prevent against future data breaches. By no later than fourteen (14) days following the Preliminary Approval Order, St. Francis will provide reasonable confirmatory discovery to confirm cybersecurity improvements implemented since the Data Security Incident, including as to the additional training provided, additional security measures (such as password changes) and cybersecurity policies or procedure changes, as well as any additional monitoring that will be done to the system where the relevant PII at issue in this case was located.

34. Class Counsel's Attorneys' Fees and Expenses. The Parties agree to participate in a binding baseball arbitration with Ben Picker or another mutually agreed upon arbitrator as to attorneys' fees after the Court's final approval of Settlement. Within ten (10) days of the Preliminary Approval Order, the Parties will set a post-Final Approval Hearing schedule with Mr. Picker whereas a decision is rendered by no later than thirty (30) days after any Final Approval Order. Any fees and expense award determined by the arbitrator in accordance with this Paragraph shall be paid by check or wire transfer within ten (10) business days of decision.

35. Class Representative Service Award. Plaintiffs will move the Court for an order awarding the application of a service award not to exceed Three Thousand Five-Hundred Dollars and Zero Cents (\$3,500.00), which St. Francis does not oppose. Any service award as approved by the Court in accordance with this Paragraph shall be paid by check or wire transfer within ten (10) business days after the Effective Date and St. Francis' Counsel's receipt of a completed IRS Form W-9 for Plaintiff, whichever is later. Class Counsel shall provide St. Francis' Counsel with payment instructions within one (1) day of the Effective Date.

III. IMPLEMENTATION OF SETTLEMENT

36. Reasonable Best Efforts to Effectuate This Settlement. Consistent with the terms of this Agreement and notwithstanding the rights of the Parties to terminate this Agreement as set forth herein, the Parties and their counsel agree to cooperate and to use their reasonable best efforts, including all steps and efforts contemplated by this Agreement and any other reasonable steps and efforts that may be necessary or appropriate, by order of the Settlement Court or otherwise, to carry out the terms of this Agreement.

37. Class Certification for Settlement Purposes Only. The Parties acknowledge and agree and hereby stipulate that: (i) the Class will be certified for settlement purposes only pursuant to this Agreement, (ii) St. Francis reserves the right to object to class certification de novo in the event this Agreement is terminated for any reason, (iii) this Agreement shall have no precedential effect with regard to any motion for certification of a litigation class that may

be filed if this matter is not fully and completely resolved through this settlement effort; and (iv) this Agreement shall have no precedential effect with regard to any other lawsuit against St. Francis that may be pending now or in the future, other than in a proceeding seeking to enforce this Agreement.

38. Motion for Preliminary Approval. Following the execution of this Agreement, the Plaintiffs shall promptly file a Motion for Preliminary Approval seeking entry of the Preliminary Approval Order in the form annexed hereto as Exhibit 5.

39. Notice to the Class.

(a) List of the Class Members. Within two (2) days after the Preliminary Approval hearing date, St. Francis shall prepare and provide to the Settlement Administrator a list of the names, last known addresses, and last known electronic mail addresses of the Class Members.

(b) Notice. Within twenty-one (21) days of the entry of the Preliminary Approval Order, the Settlement Administrator shall send Settlement Electronic Notice to the Class Members by email (with read receipt requested), where valid email addresses are available. Where valid email addresses are not available or for whom the Settlement Administrator did not receive a read receipt, the Settlement Administrator shall send Settlement Postcard Notice by U.S. Mail. Email addresses shall include work email addresses for current employees, but, when possible, personal email addresses should be used. Where a valid email address is not available, the Settlement Administrator shall run such Class Members' names through the National Change of Address Program and then mail a Settlement Postcard Notice to each Class Member. For anyone with a valid email address, but who has not indicated read receipt within seven (7) days of being emailed, the Settlement Administrator shall send Settlement Postcard Notice. If the mailing of a Settlement Postcard Notice is returned as undeliverable, the Settlement Administrator will make reasonable efforts to identify a new address for that Class Member, including, but not limited to, skip-tracing, and promptly re-send the Settlement Postcard Notice to the identified new address, if any.

(c) Settlement Long Form Notice. A detailed Settlement Long Form Notice, attached as Exhibit 3 hereto, will be made available to the Class Members on the Settlement website to be maintained by the Settlement Administrator in accordance with Paragraph 39(d) below.

(d) Website. The Settlement Administrator shall maintain a website, beginning on or before the Settlement Electronic Notice and the Settlement Postcard Notice is sent and ending no later than nine months after the Effective Date. The website includes copies of the Complaint, Settlement Agreement, Motion for Preliminary Approval, Preliminary Approval Order, Settlement Long-Form Notice, Claim Form, Motion for Final Approval, and Order and Final Judgment. The website shall also provide applicable Settlement deadlines and answers to frequently asked questions.

(e) Settlement Administrator Phone Line. The Settlement Administrator will provide a recorded phone line for any frequently asked questions, which will be agreed to by both Parties. In addition, the Settlement Administrator will provide an option to speak with a

live customer service representative for the limited purpose of requesting a copy of any of the Settlement Long-Form Notice or Claim Form.

(f) Proof of Notice. Plaintiffs shall file with the Motion for Final Approval, or at such other time required by the Court, and a declaration from the Settlement Administrator confirming that notice has been provided to the Class in accordance with Paragraph 39.

40. Payment of Expenses Related to Notice and Administration. St. Francis will pay all costs incurred and fees charged by the Settlement Administrator in providing notice to the Class in accordance with Paragraph 39 and otherwise administering the Settlement.

41. Claim Forms. Class Members may submit Claim Forms electronically via the website referenced in Paragraph 39(d) or physically by mail to the Settlement Administrator. Claims Forms must be submitted electronically or postmarked by the Claim Deadline. Claim Forms must be submitted individually by a Class Member, not as or on behalf of a group, class, or subclass, except that the Claim Forms may be submitted by a legal representative of a deceased Class Member or a Class Member who has been adjudicated to be mentally incompetent. If a Claim Form is submitted by a legal representative of a deceased or mentally incompetent Class Member, the Claim Form must be submitted together with a copy of a court order or other documentation from which the Settlement Administrator can reasonably verify the authority of the legal representative to act on behalf of the Class Member. The Settlement Administrator shall make all determinations as to Approved Claims and within its discretion may consult with the Parties, including as noted in Paragraph 42.

42. Claim Form Disputes. To the extent the Settlement Administrator determines a Claim Form is deficient in whole or part, within a reasonable time of making such a determination, the Settlement Administrator shall notify the Class Member of the deficiencies and give the Class Member twenty-one (21) days to cure the deficiencies. Such notifications shall be sent via e-mail, unless the Class Member did not provide an e-mail address, in which case such notifications shall be sent via U.S. Mail. If the Class Member attempts to cure the deficiencies but, at the sole discretion and authority of the Settlement Administrator, fails to do so, the Settlement Administrator shall notify the Class Member of that determination within seven (7) days of the determination. The Settlement Administrator may consult with Class Counsel and St. Francis Counsel in making such determinations.

43. Appeal Process. If the Settlement Administrator determines that a Claim Form is deficient, and the Class Member fails to cure the deficiency, the Settlement Administrator shall inform the Class Member of his or her right to dispute the determination in writing and request an appeal within fourteen (14) days. If an individual disputes a determination in writing and requests an appeal, the Settlement Administrator shall provide a copy of the Class Member's dispute and claims form along with all documentation and other information submitted by the Class Member to counsel for the Parties. Counsel for the Parties will confer regarding the claim submission within five (5) business days of receipt of such documentation/information from Settlement Administrator. Counsel for the Parties' approval of denial of the Class Member's claim, in whole or in part, will be final. If counsel for the Parties cannot agree on approval or denial of the Settlement Class Member's claim, in whole

or in part, the dispute will be submitted the Settlement Administrator. The Settlement Administrator will make a decision within five (5) business days of the submissions by counsel for the Parties. The Settlement Administrator's decision will be final and not subject to appeal or further review.

44. Objections. Any Settlement Class Member who wishes to object to the Settlement must send a signed, written objection to the Settlement Administrator by the Objection Deadline (or other date required by the Court). Written objections must set forth the following:

- (a) the name of the proceedings ("*Baires-Rodriguez v. St. Francis College*");
- (b) the Class Member's full name, current mailing address, and telephone number;
- (c) a statement of the specific grounds for the objection, as well as any documents supporting the objection;
- (d) a statement as to whether the objection applies only to the objector, to a specific subset of the class, or to the entire class;
- (e) the identity of any attorneys representing the objector;
- (f) a statement regarding whether the Class Member (or his/her attorney) intends to appear at the Final Approval Hearing;
- (g) all other cases in which the objector and/or the objector's counsel has filed an objection to any proposed class action settlement within the past three (3) years; and
- (h) the signature of the Class Member or the Class Member's attorney.

Written objections must be served concurrently upon Plaintiff's Counsel and St. Francis' Counsel at the addresses set forth herein. Class Members who fail to make objections in the manner specified in Paragraph 44 of this Agreement will be deemed to have waived any objections and will be foreclosed from making any objections, whether by a subsequent objection, intervention, appeal, or any other process. The exclusive means for any challenge to the Settlement Agreement shall be through the provisions set forth in this Paragraph. Without limiting the foregoing, any challenges to the Settlement Agreement and/or the Order and Final Judgment shall be pursuant to appeal under applicable Court rules and not through a collateral attack.

45. Intention to Appear at Final Approval Hearing. Any Settlement Class Member who wishes to be heard at the Final Approval Hearing must send a signed Notice of Intention to Appear to the Settlement Administrator no later than sixty (60) days following the Notice Deadline (or other date required by the Court). The Notice of Intention to Appear must set forth the following:

- (a) the name of this Action (“*Baires-Rodriguez v. St. Francis College*”);
- (b) the full name, address, and telephone number of the person intending to appear at the Final Approval Hearing;
- (c) the words “Notice of Intention to Appear” at the top of the document;
- (d) the points the person wishes to speak about at the Final Approval Hearing; and
- (e) the identity (name, address, and telephone number) of any lawyer who will speak on the person’s behalf.

46. Opt-Outs. A Class Member may opt out of the Settlement by submitting an opt-out request to the Settlement Administrator by U.S. mail, as set forth in the Notice. Any such opt-out request, in order to be timely, must be postmarked by the Opt-Out Deadline (or other date required by the Court). The Request for Exclusion must set forth the following:

- (a) The name of this Action (“*Baires-Rodriguez v. St. Francis College*”);
- (b) the full name, address, and telephone number of the person requesting to be excluded;
- (c) the words “*Request for Exclusion*” at the top of the document; and
- (d) a declaration stating “I request that I be excluded from the Settlement Class in *Baires-Rodriguez v. St. Francis College*, and do not wish to participate in the settlement. I understand that by requesting to be excluded from the Settlement Class, I will not receive any benefits under the Settlement.”

Requests to opt-out must be exercised individually by a Class Member, not as or on behalf of a group, class, or subclass. Within seven (7) days after the Opt-Out Deadline, the Settlement Administrator shall furnish to counsel for the Parties a complete list of all timely and valid requests for exclusion, which shall be submitted to the Court with the Motion for Final Approval. All Class Members who do not timely and properly exclude themselves from the Settlement Class shall be bound by this Agreement, and their claims shall be released as provided for herein.

A Class Member cannot submit an opt-out request and a Claim Form. If a Class Member submits an opt-out request and a Claim Form, the Settlement Administrator will determine based on the communication with the latest date (provided it is timely) whether the Class Member intends to opt out or submit a Claim Form.

47. Motion for Final Approval. The Parties shall request a Final Approval Hearing date within fourteen (14) days of the deadline for timely submitting objections and requests for exclusions. Plaintiffs shall file a Motion for Final Approval seeking final approval of the Settlement and entry of final judgment. Plaintiffs shall provide St. Francis a draft of such papers five (5) days before filing and thus provide the opportunity to review and comment. St.

Francis shall cooperate with Plaintiffs to obtain final approval of the Settlement consistent with the terms herein. The Final Approval Order and Judgment shall be substantially similar to the proposed order attached as Exhibit 6.

48. Effective Date of Settlement. The Settlement detailed in this Agreement shall be effective one (1) day after all of the following events have occurred: (1) approval by the Court of this Agreement, following notice to the Class and a Final Approval hearing; (2) entry by the Court of an Order and Final Judgment; (3) if any member of the Class files an objection to the Settlement, the expiration of any time for appeal or review of an Order and Final Judgment, or, if any appeal is filed, after an Order and Final Judgment is upheld on appeal in all material respects and is no longer subject to review upon appeal or review by writ of certiorari; and (4) this Agreement is no longer subject to termination by any Party as provided for in Section IV.

49. Provision of Credit Monitoring Services. The Settlement Administrator shall send an activation code to each Settlement Class Member who submitted a valid Claim Form within thirty (30) days of the validation of the Claim Form according to the process set forth in Paragraph 41 or thirty (30) days after the Effective Date, whichever is later, which can be used to activate Credit Monitoring Services via an enrollment website maintained by Pango Identity Defense Complete. Such enrollment codes shall be sent via e-mail, unless the claimant did not provide an e-mail address, in which case such codes shall be sent via U.S. mail. Credit Monitoring Services claimants may activate Credit Monitoring Services for a period of at least one-hundred and eighty (180) days from the date the Settlement Administrator sends the activation code.

50. Payment of Other Benefits. On or before the Effective Date, the Settlement Administrator will invoice St. Francis, copying Class Counsel, for the amount of valid claims for Out-of-Pocket Losses and Reimbursement for Attested Time. Payments for Reimbursement of Out-of-Pocket Losses and Reimbursement for Attested Time will be made by the Settlement Administrator within fourteen (14) days of validation of the Claim Form according to the process set forth in Paragraph 41 or twenty-one (21) days after the Effective Date, whichever is later. Thirty (30) days after the Effective Date, the Settlement Administrator shall invoice St. Francis for remaining claims to be paid. Within ten (10) business days, St. Francis will provide the Settlement Administrator with the funds to pay the remaining claims. To the extent claims are finally approved after the deadline for payment as set forth in this Paragraph, the Settlement Administrator shall invoice St. Francis (copying Class Counsel) for such claims to be paid within thirty (30) days, and St. Francis will provide the Settlement Administrator with the funds to pay these claims within thirty (30) days.

51. Uncashed Checks. In the event that a check or draft issued to a Settlement Class Member by the Settlement Administrator is not negotiated within one-hundred eighty (180) days of the date of the check or draft, within sixty (60) days thereafter, the Settlement Administrator shall return the funds to St. Francis or the entity paying on behalf of St. Francis, unless otherwise agreed between the Settlement Administrator and St. Francis. The Settlement Class Member shall be deemed to have waived his or her entitlement to payment under this Agreement and St. Francis shall have no further monetary liability or responsibility to that

Settlement Class Member. All other terms of this Agreement, including the release set forth in Paragraph 53 below, shall remain in effect.

52. All Claims Satisfied. Each Settlement Class Member shall look solely to the relief described in Paragraph 39 for settlement and satisfaction, as provided herein, of all Released Claims.

III. RELEASES AND JURISDICTION OF SETTLEMENT COURT

53. Release of Released Entities. Upon the Effective Date, and in consideration of the Settlement benefits described herein, each of the Settlement Class Members, including Plaintiff, and each of their respective heirs, executors, trustees, administrators, representatives, agents, partners, successors, attorneys, and assigns (the “Releasing Parties”) shall be deemed to have, and by operation of the Order and Final Judgment shall have, fully, finally and forever released, relinquished acquitted, and discharged any and all Released Claims against St. Francis and its present and former predecessors, successors, assigns, parents, divisions, affiliates, departments, and any and all of their past, present, and future officers, directors, employees, stockholders, partners, servants, agents, successors, attorneys, advisors, consultants, representatives, insurers, reinsurers, subrogees and the predecessors, successors, and assigns (the “Released Parties”).

54. Consent to Jurisdiction. The Parties hereby irrevocably submit to the exclusive jurisdiction of the Settlement Court for purposes of any suit, action, proceeding or dispute arising out of, or relating to, this Agreement or the applicability of this Agreement, including as to any attorneys’ fee and expense award issued by the arbitrator consistent with Paragraph 34.

55. Resolution of Disputes; Retention of Jurisdiction. Any disputes between or among the Parties concerning matters contained in this Agreement unless otherwise specified shall, if they cannot be resolved by negotiation and agreement, be submitted to the Settlement Court for resolution. The Settlement Court shall retain jurisdiction over the implementation and enforcement of this Agreement.

IV. TERMINATION OF THE AGREEMENT

56. Rejection or Material Alteration of Settlement Terms. St. Francis and the Plaintiffs shall each have the right to terminate this Agreement by providing written notice of their election to do so to each other within seven (7) days of: (1) the Settlement Court declining to enter the Preliminary Approval Order in a form materially consistent with this Settlement Agreement and indicating that it would not enter a Preliminary Approval Order if the Parties make revisions that were materially consistent with this Settlement Agreement; (2) the Settlement Court declining to enter an Order and Final Judgment in a form materially consistent with this Agreement (other than determining, in the Settlement Court’s sole discretion, the amount of the service award in accordance with Paragraphs 35) and indicating that it would not enter an Order and Final Judgment if the Parties make revisions that were materially consistent with this Settlement Agreement; (3) the date upon which the Order and Final Judgment is modified or reversed in any material respect by any appellate court, which

indicates that the Settlement cannot be approved if the Parties make revisions that are materially consistent with this Settlement Agreement (except with respect to the amount of the service award or the attorneys' fees and expenses as determined consistent with Paragraph 34); (4) the submission of opt-outs requests by two percent or more of all Settlement Class Members; or (5) the mutual agreement of the Plaintiffs and St. Francis to terminate the Agreement. If an option to terminate this Agreement arises under this paragraph, no Party is required for any reason or under any circumstance to exercise that option.

57. Return to Pre-Agreement Status. In the event any of the Parties exercise the right of termination enumerated in Paragraph 56, this Agreement shall be null and void and shall have no force and effect, the Parties shall jointly request that any orders entered by the Settlement Court in accordance with this Agreement be vacated, and the rights and obligations of the Parties shall be identical to those prior to the execution of this Agreement. In the event either Party exercises any right of termination, the Parties agree to jointly request that the Settlement Court provide a reasonable opportunity to engage in such other further proceedings as were contemplated before the Parties entered into this Agreement.

58. No Admission of Liability / Compromise of Disputed Claims. The Parties agree that this Agreement, whether or not the Effective Date occurs, and any and all negotiations, documents and discussions associated with it shall not be deemed or construed to be an admission or evidence of any violation of any statute or law, of any liability or wrongdoing by St. Francis or of the truth of any of the claims or allegations contained in the Complaint; and evidence thereof shall not be discoverable or used directly or indirectly by Plaintiffs or any third party, in any way for any purpose, except that the provisions of this Agreement may be used by the Parties to enforce its terms, whether in the Action or in any other action or proceeding. This Agreement and all of the terms herein constitute compromises and offers to compromise under applicable federal and state rules of court and statutes. In the event that this Agreement is terminated pursuant to Paragraph 56, nothing in this Agreement or its negotiation may be used in the Action or in any proceeding for any purpose. The Parties expressly waive the potential applicability of any doctrine, case law, statute, or regulation, which, in the absence of this paragraph of this Agreement, could or would otherwise permit the admissibility into evidence of the matters referred to in this paragraph. The Parties expressly reserve all their rights and defenses if the Settlement set forth in this Agreement does not become final and effective substantially in accordance with the terms of this Agreement. The Parties also agree that this Agreement, any orders, pleadings or other documents entered in furtherance of this Agreement, and any acts in the performance of this Agreement are not intended to be, nor shall they in fact be, admissible, discoverable or relevant in any other case or other proceeding against St. Francis to establish grounds for certification of any class, to prove either the acceptance by any Party of any particular theory of coverage, or as evidence of any obligation that any Party has or may have to anyone. This provision shall survive any termination of this Agreement.

V. REPRESENTATIONS AND WARRANTIES

59. Authorization to Enter this Agreement. The undersigned representative of St. Francis represents and warrants that he or she is fully authorized to enter into and to execute

this Agreement on behalf of St. Francis. Class Counsel represent and warrant that they are fully authorized to conduct settlement negotiations with St. Francis' Counsel on behalf of Plaintiffs and to enter into, and to execute, this Agreement on behalf of Plaintiffs and the Settlement Class, subject to Settlement Court approval.

60. Assignment. Plaintiffs represent and warrant that they have not assigned or transferred any interest in the Action which is the subject of this Agreement, in whole or in part.

61. Representation. Plaintiffs acknowledge that they have been represented by counsel of their own choosing in the Action and the negotiation and execution of this Agreement, fully understand this Agreement, and that they have had a reasonable and sufficient opportunity to consult with counsel before executing this Agreement.

VI. ADDITIONAL PROVISIONS

62. Intent. The Parties acknowledge that it is their intent to consummate this Agreement, and that they intend this Agreement to be a final and complete resolution of all disputes between them with respect to the Action.

63. Use of this Agreement. The provisions of this Agreement, and any orders, pleadings or other documents entered in furtherance of this Agreement, may be offered or received in evidence solely (i) to enforce the terms and provisions hereof or thereof, (ii) as may be specifically authorized by a court of competent jurisdiction after hearing upon application of a Party, (iii) in order to establish payment or a defense in a subsequent case, including res judicata, or (iv) to obtain Court approval of this Agreement.

64. Binding Effect. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties.

65. Headings. The headings to this Settlement Agreement have been inserted for convenience only and are not to be considered when construing the provisions of this Agreement.

66. Construction. This Agreement shall be construed and interpreted to effectuate the intent of the Parties. Plaintiffs intend for the Settlement to provide fair compensation to Plaintiffs and the Class. St. Francis intends for the agreement to provide for a complete resolution by the Releasers of the Released Claims with respect to the Released Entities. This Settlement Agreement shall not be construed more strictly against one Party than another merely because of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that because of the arm's-length negotiations resulting in this Settlement Agreement, all Parties have contributed substantially and materially to the preparation of the Settlement Agreement. All terms, conditions and exhibits are material and necessary to this Settlement Agreement and have been relied upon by the Parties in entering into this Settlement Agreement.

67. Choice of Law. All terms of this Agreement shall be governed by and interpreted according to the substantive laws of the State of New York without regard to its choice of law or conflict of laws principles.

68. Amendment or Waiver. This Agreement shall not be modified in any respect except by a writing executed by all the Parties, and the waiver of any rights conferred hereunder shall be effective only if made by written instrument of the waiving Party or their counsel, who may only sign with the permission of their clients. The waiver by any Party of any breach of this Agreement shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent or contemporaneous.

69. Modification. Prior to entry of the Final Order and Judgment, this Agreement may, with approval of the Court, be modified by written agreement of the Parties or their counsel, who may only sign with the permission of their clients, without giving any additional notice to the Settlement Class, provided that such modifications are not materially adverse to the Settlement Class. To the extent that Class Members desire to be notified regarding any additional changes as described in this paragraph, or otherwise after the initial notice of the Settlement, the Preliminary Approval hearing and the Final Approval Hearing, they must file with the Settlement Court in this Action a request for notice, or send such a request in writing to the Settlement Administrator or Class Counsel, who shall maintain a list of all such requests that are received. Class Members who have and who provide an e-mail address agree to electronic notification. The provisions of this section advising Class Members of this requirement shall be included in the Settlement Long Form Notice.

70. Execution in Counterparts. This Agreement may be executed in counterparts. Facsimile signatures, electronic signatures obtained through a service ensuring an authentication process, or signatures in PDF format shall be considered as valid signatures as of the date thereof, and may be filed with the Settlement Court.

71. Integrated Agreement. This Agreement, including the exhibits hereto, contains an entire, complete, and integrated statement of each and every term and provision agreed to by and between the Parties unless otherwise specified in the Confidential Settlement Term Sheet agreed to by the Parties on August 8, 2022, and supersedes any prior oral or written agreements and contemporaneous oral agreements among the Parties, including but not limited to the Confidential Settlement Term Sheet agreed to by the Parties on August 8, 2022, unless otherwise specified in the Confidential Settlement Term Sheet. Exhibits to this Agreement are integral to the Agreement and are hereby incorporated and made part of this Agreement.

72. Notices. All notices and other communications required or permitted under this Agreement shall be in writing and delivered in person, by email and by overnight delivery service or by facsimile as follows:

If to the Plaintiffs:

Jessica L. Lukasiewicz
Thomas & Solomon LLP
693 East Avenue

Rochester, New York 14607

If to St. Francis:

David M. Ross
Wilson Elser LLP
1500 K Street, NW, Suite 330
Washington, D.C. 20005.

73. Severability. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision if the Parties mutually elect to proceed as if such invalid, illegal or unenforceable provision had never been included in the Agreement.

74. Confidential Information. The Settlement Administrator shall keep confidential any personal identifying information of the Class Members, and any financial information of St. Francis, that has or may come into their possession.

75. Deadlines. In the event any date or deadline set forth in this Settlement Agreement falls on a weekend or federal or state legal holiday, such date or deadline shall be on the first business day thereafter.

76. Retention of Records. The Settlement Administrator shall retain copies or images of all mailed notices or records thereof, returned mailed notices, correspondence related to the Settlement and Settlement checks for a period of one hundred eighty (180) days after the Effective Date. After this time, the Settlement Administrator will provide these records to St. Francis' Counsel, and the Settlement Administrator shall destroy any such documentary records it has in its possession.

77. Contact with Class Members. St. Francis may communicate with the Class Members in the ordinary course of its business. St. Francis will refer inquiries regarding this Agreement and the administration of the Settlement to the Settlement Administrator.

78. Public Statements. Prior to the Preliminary Approval Order, Class Counsel shall not issue any press release regarding the facts or terms of this Agreement.

IN WITNESS WHEREOF, the Parties have caused the Settlement Agreement to be executed.

SIGNATURES OF THE PARTIES

KYRSTEN BAIREZ-RODRIGUEZ

Dated: September ⁰⁹ __, 2022



SignNow e-signature ID: 60ceaf8b59...
09/09/2022 19:01:28 UTC

THOMAS & SOLOMON LLP, Class Counsel (as to form only)

Dated: September __, 2022

By: Jessica L. Lukasiewicz
Title: Partner
Address: 693 East Avenue
Rochester, NY 14607
Phone: (585) 272-0540
Fax: (585) 272-0574
Email: jlukasiewicz@theemploymentattorneys.com

ST. FRANCIS COLLEGE

Dated: September __, 2022

Name: _____

Title: _____

WILSON ELSER LLP, Counsel for St. Francis (as to form only)

Dated: September __, 2022

By: David M. Ross
Title: Partner
Address: 1500 K Street, NW, Suite 330
Washington, D.C. 20005
Phone: (202) 626-7687
Fax: (202) 628-3606
Email: david.ross@wilsonelser.com

SIGNATURES OF THE PARTIES

KYRSTEN BAIRE-RODRIGUEZ

Dated: September __, 2022

THOMAS & SOLOMON LLP, Class Counsel (as to form only)

Dated: September ¹²__, 2022



By: Signer's signature ID is 60100452e
09/12/2022 17:36:42 UTC Jessica L. Lukasiewicz
Title: Partner
Address: 693 East Avenue
Rochester, NY 14607
Phone: (585) 272-0540
Fax: (585) 272-0574
Email: jlukasiewicz@theemploymentattorneys.com

ST. FRANCIS COLLEGE

Dated: September __, 2022

Name: _____

Title: _____

WILSON ELSER LLP, Counsel for St. Francis (as to form only)

Dated: September __, 2022

By: David M. Ross
Title: Partner
Address: 1500 K Street, NW, Suite 330
Washington, D.C. 20005
Phone: (202) 626-7687
Fax: (202) 628-3606
Email: david.ross@wilsonelser.com

SIGNATURES OF THE PARTIES

KYRSTEN BAIRE-RODRIGUEZ

Dated: September __, 2022

THOMAS & SOLOMON LLP, Class Counsel (as to form only)

Dated: September __, 2022

By: Jessica L. Lukasiewicz
Title: Partner
Address: 693 East Avenue
Rochester, NY 14607
Phone: (585) 272-0540
Fax: (585) 272-0574
Email: jlukasiewicz@theemploymentattorneys.com

ST. FRANCIS COLLEGE

Dated: September 13, 2022



Name: Maureen Lawrence

Title: CFO

WILSON ELSER LLP, Counsel for St. Francis (as to form only)

Dated: September 13, 2022



By: David M. Ross
Title: Partner
Address: 1500 K Street, NW, Suite 330
Washington, D.C. 20005
Phone: (202) 626-7687
Fax: (202) 628-3606
Email: david.ross@wilsonelser.com

Exhibit 1

SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF MONROE

Baires-Rodriguez, et al. v. St. Francis College, Index No. E2022006634

CLAIM FORM

If you were notified by St. Francis College as a result of the data security incident perpetrated against St. Francis on or about November/December 2018 (the “Data Security Incident”), you may submit a claim for one or more of the following benefits:

1. **Credit Monitoring.** You can enroll in Pango Identity Defense Complete protection services for a period of three (3) years. The three years of service is above and beyond any services previously offered by St. Francis following the Data Security Incident. Pango Identity Defense Complete includes credit monitoring from one bureau, dark web monitoring, monthly credit scores, access to credit reports, authentication alerts, high risk transaction monitoring, address change monitoring, and \$1 million in identity theft insurance.
2. **Reimbursement for Out-of-Pocket Losses.** If you incurred expenses that are actual, documented and traceable to the Data Security Incident, such as money spent remedying identity theft or identity fraud or freezing/unfreezing credit reports with any credit reporting agency, you can be reimbursed up to \$150. You must submit documents supporting your claim, including exhaustion of all available credit monitoring and identity theft insurance.
3. **Reimbursement for Attested Time.** If you submit a claim for Out-of-Pocket Losses and spent time remedying issues related to identify theft directly caused by the Data Security Incident, you can recover up to four (4) total hours at \$20 per hour for a maximum total of \$80.

NOTE: The Reimbursement for Out-of-Pocket Losses and Reimbursement for Attested Time claims are subject to a combined \$150 aggregate cap per Class Member.

Submit this claim form via [SETTLEMENT WEBSITE] or mail this claim form to [SETTLEMENT ADMINISTRATOR ADDRESS] postmarked no later [90 days after Notice Deadline]. Please print clearly in blue or black ink. Additional Instructions on Page 2.

The settlement notice describes your legal rights and options. The detailed Notice and Settlement Agreement are available at [WEBSITE] or by calling [SETTLEMENT NUMBER].

A. CONTACT INFORMATION *(Please fill in completely)*

Name: _____

Address: _____

City, State, Zip Code: _____

Email Address: _____

NOTE: PLEASE REVIEW ALL FIVE PAGES OF THE CLAIM FORM.

INSTRUCTIONS:

Please review the notice and Section II of the Settlement Agreement (available at [[WEBSITE](#)]) for more information on who is eligible for a payment and the nature of the expenses or losses that can be claimed.

Please provide as much information as possible to help us figure out if you are entitled to a settlement payment.

PLEASE PROVIDE THE INFORMATION LISTED BELOW:

Check the box(es) for each category of benefits you would like to claim. Categories include:

(1) Credit Monitoring: three years of Pango Identity Defense Complete credit monitoring and identity protection services to be paid for by St. Francis (Note: if you previously signed up for monitoring when initially notified about the Data Security Incident, you are still eligible to submit a claim for three additional years of monitoring);

(2) Out-of-Pocket Losses that are documented and you had to pay as a result of the Data Security Incident (up to \$150); and

(3) Reimbursement for Attested Time: If you submit a claim for Out-of-Pocket Losses, time you had to spend dealing with the effects of the Data Security Incident.

You may check more than one box and may check all three if applicable. Please be sure to fill in the total amount you are claiming for each category and attach documentation of the charges described in bold type. If you are asked to provide account statements as part of proof required for any part of your claim, you may mark out any unrelated transactions if you wish.

A. CREDIT MONITORING (*Check box if you want this benefit*)

_____ I would like to claim 3 years of credit monitoring and identity theft protection services.

The Settlement requires St. Francis to provide three years of credit monitoring and identity protection services through Pango Identity Defense Complete to any class member who timely claims it. The three years of service is above and beyond any services previously offered by St. Francis following the Data Security Incident. Pango Identity Defense Complete includes credit monitoring from one bureau, dark web monitoring, monthly credit scores, access to credit reports, authentication alerts, high risk transaction monitoring, address change monitoring, and \$1 million in identity theft.

NOTE: YOU MUST SIGN THE CLAIM FORM AT THE BOTTOM OF PAGE 4 IN ORDER TO HAVE A VALID CLAIM.

B. REIMBURSEMENT FOR OUT-OF-POCKET LOSSES (*Check box if you want this benefit*)

_____ I incurred documented unreimbursed charges as a result of the Data Security Incident.

Examples – Unreimbursed costs, expense, losses or charges incurred as a result of identity theft or identity fraud, falsified tax returns, or other possible misuse of your personal information; costs associated with purchasing or extending additional credit monitoring or identity theft protection services and/or accessing or freezing/unfreezing credit reports with any credit reporting agency; and miscellaneous expenses such as notary, fax, postage, copying, mileage and long-distance telephone charges that arose because of the Data Security Incident.

Description of Loss or Money Spent	Amount	Date

Total amount for reimbursement: \$_____

If you are seeking reimbursement for fees, expenses, or charges, you must attach a copy of a statement from the company that charged you, or a receipt of the amount you incurred. You may mark out any transactions that are not relevant to your claim before sending in the documentation.

NOTE: YOU MUST SIGN THE CLAIM FORM AT THE BOTTOM OF PAGE 4 IN ORDER TO HAVE A VALID CLAIM.

C. REIMBURSEMENT FOR ATTESTED TIME (*Check box if you want this benefit*)

_____ I confirm that I have submitted a claim for Out-of-Pocket Losses and spent time dealing with the effects of the Data Security Incident.

Examples: You spent time calling customer service lines, writing letters or emails, or on the Internet in order to get fraudulent charges reversed or in updating automatic payment programs because your card number changed.

I confirm that I spent the following amount of time in response to the Data Security Incident:

_____ hours _____ minutes (up to four hours)

Explanation of Time Spent (Identify what you did and why)	Date	Number of Hours and Minutes

NOTE: YOU MUST SIGN THE CLAIM FORM IN ORDER TO HAVE A VALID CLAIM.

D. SIGNATURE (*Please sign and date*)

I confirm that the information completed was to the best of my abilities. I also understand that I may be asked to provide supplemental information by the Settlement Administrator before my claim will be considered complete and valid.

Signature

Date

Typing your name constitutes your legal signature, in the same manner as if you signed by hand

THIS CLAIM FORM MUST BE COMPLETED, SIGNED, AND SUBMITTED TO THE SETTLEMENT ADMINISTRATOR AS FOLLOWS:

POSTMARKED BY [90 days after Notice Deadline] AND MAILED TO [SETTLEMENT ADMINISTRATOR ADDRESS];

EMAILED BY 11:59 PM EASTERN TIME ZONE ON [90 days after Notice Deadline] TO [EMAIL ADDRESS]; OR

SUBMITTED THROUGH THE SETTLEMENT WEBSITE BY 11:59 PM EASTERN TIME ZONE ON [90 days after Notice Deadline] AT [WEBSITE].

IF YOU HAVE ANY QUESTIONS ABOUT THIS LAWSUIT, YOUR RIGHTS, OR COMPLETING THIS CLAIM FORM, PLEASE CONTACT CLASS COUNSEL AT ContactUs@theemploymentattorneys.com or 585-272-0540.

Exhibit 2

E-Mail Notice

To: [Class Member]

From: [SETTLEMENT ADMINISTRATOR]

Subject: Legal Notice of Settlement of Class Action and Applicable Deadlines

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

YOU ARE ELIGIBLE FOR UP TO THREE ADDITIONAL YEARS OF CREDIT MONITORING AND YOU MAY ALSO BE ELIGIBLE TO RECEIVE CASH PAYMENTS.

TO: All individuals who were notified by St. Francis College as a result of the data security incident perpetrated against St. Francis on or about November/December 2018.

A class action settlement has been proposed in litigation against St. Francis relating to a data breach that occurred in or around November/December 2018 (“Data Security Incident”). The case is known as *Baires-Rodriguez et al. v. St. Francis College*, Index No. E2022006634 in the Supreme Court of the State of New York County of Monroe. St. Francis denies all of the claims. You are receiving this notice because St. Francis’ records show that your personal information was or may have been compromised in the Data Security Incident. **The easiest way to submit a claim under the settlement is online at [website].**

Please read the detailed Class Notice and proposed settlement at [website] to fully understand your legal rights and options.

Under the terms of the settlement, you could be eligible to receive:

Identity Theft Protection Coverage: You can sign up for three (3) years of theft protection coverage through Pango Identity Defense Complete. You are entitled to this coverage even if you previously signed up for identity theft protection through St. Francis following the Data Security Incident.

Other Benefits: You may also be eligible to receive Reimbursement for Out-of-Pocket Losses and Reimbursement for Attested Time caused by the Data Security Incident. Further information about these benefits and whether you are eligible to receive them can be found at [website].

THE ONLY WAY TO RECEIVE A BENEFIT IS TO FILE A CLAIM. To be eligible to receive these benefits, you must submit a completed Claim Form by [90 days after notice is mailed/emailed]. You can access the Claim Form online at [website].

Additional Information:

If you do nothing, you will remain in the class, you will not be eligible for benefits, and you will be bound by the decisions of the Court and give up your rights to sue for the claims resolved by this settlement.

To object to the proposed settlement, please review Section 7 of the detailed Class Notice at [HYPERLINK]. To opt-out of the proposed settlement, please review Section 8 of the detailed Class Notice at [HYPLERLINK]. The deadline for objecting to the proposed settlement or opting out of the settlement is [60 DAYS FROM THE NOTICE DATE].

The Court will hold a hearing on [INSERT] at [INSERT] a.m. EST to consider whether to approve the settlement and whether to award up to \$3,500 in a service award to the Class Representative. You or your own lawyer, if you have one, may ask to appear and speak at the hearing at your own cost, but you do not have to.

This is only a summary. For more information, please call [PHONE NUMBER] or visit [WEBSITE]. If you have questions or concerns, you can contact Class Counsel at ContactUs@theemploymentattorneys.com or at 585-272-0540. You can also contact the Settlement Administrator at [INSERT].

Exhibit 3

If you were notified by St. Francis College regarding the November/December 2018 Data Security Incident, you may be entitled to benefits from a class action Settlement.

A Court directed this notice. This is not a solicitation from a lawyer.

YOU ARE ELIGIBLE FOR UP TO THREE ADDITIONAL YEARS OF CREDIT MONITORING AND YOU MAY ALSO BE ELIGIBLE TO RECEIVE CASH PAYMENTS.

A class action settlement has been reached in litigation against St. Francis College relating to a data security incident that occurred in or about November/December 2018 (the “Data Security Incident”). The case is known as *Baires-Rodriguez, et al. v. St. Francis College*, Index No. E2022006634 in the Supreme Court of the State of New York County of Monroe. St. Francis denies all of the claims. The proposed Settlement will provide benefits to Class Members whose personal information may have been affected by the Data Security Incident.

YOUR LEGAL RIGHTS AND OPTIONS IN THE PROPOSED SETTLEMENT

Do Nothing	<p>By doing nothing, you will be foregoing the ability to now obtain three (3) years of identity theft protection. If you have already signed up for identity theft protection in response to the November/December 2018 notice of the Data Security Incident, you are giving up the ability to extend that coverage for an additional three (3) years.</p> <p>You will also be giving up the ability to receive other benefits available under the Settlement, should it be approved. These benefits are Reimbursement for Out-of-Pocket Losses and Reimbursement for Attested Time.</p> <p>You are also relinquishing any rights you may have to sue St. Francis regarding the Data Security Incident.</p>
Timely Submit Claim Form(s)	<p>To be eligible to receive benefits under the Settlement, you must submit a Claim Form by [90 days after Notice Deadline].</p>

Object to the Settlement	Submit an objection to the Court by [60 days after Notice Deadline], to let the Court know you disagree with some or all of the terms of the proposed Settlement. You can still submit a Claim Form if you object to the proposed Settlement. If the Court approves the Settlement, you will be bound by the Court's decision and the Settlement Agreement.
Opt-out of the Settlement	Submit an Opt-Out Statement by [60 days after Notice Deadline], to be excluded from the Settlement. If you opt out of the Settlement, you forfeit any rights to Settlement benefits. You will retain any right you may have to sue St. Francis regarding the Data Security Incident.

This Notice explains these rights and options and the deadlines to exercise them. The Court still has to decide whether to approve this Settlement. Benefits for valid claims will be provided if the Court approves the Settlement and after any appeals are resolved. Please be patient.

BASIC INFORMATION

1. What is this lawsuit about?

In November/December 2018, St. Francis discovered it was the victim of a Data Security Incident. An unknown third-party gained unauthorized access to St. Francis' software and/or systems, which may have resulted in the disclosure of employees and students' personal identifiable information (PII), including names, addresses, Social Security numbers, financial account numbers, passport numbers, driver's license numbers and/or health information. St. Francis took steps to remediate and investigate the Data Security Incident, and has notified current and former employees and current and former students whose personal information may have been compromised in the Data Security Incident.

Thereafter, Kyrsten Baires-Rodriguez filed a class action lawsuit alleging that she and other individuals were affected by the Data Security Incident. Kyrsten Baires-Rodriguez is the "Plaintiff" or "Class Representative" and she sued St. Francis College, the "Defendant," on behalf of people who she alleges have similar claims (the "Class"). The lawsuit alleges St. Francis did not adequately protect the Class Members' personal information. St. Francis denies all allegations of wrongdoing.

2. Why is there a proposed Settlement?

The Court did not reach a final decision in favor of the Class or St. Francis. Instead, both sides agreed to a proposed Settlement to resolve the lawsuit. A settlement avoids the costs and uncertainty of a trial and related appeals, while providing benefits to the Class.

The Class Representative and Class Counsel believe the proposed Settlement is best for all members of the Class. The Court in charge of the lawsuit has granted preliminary approval of the proposed Settlement and has ordered that this Notice be made available to explain it.

3. Who does the proposed Settlement affect?

You are a Class Member and are affected by the proposed Settlement if you were notified by St. Francis that your personal information was or may have been compromised in the Data Security Incident that occurred in or around November/December 2018.

If you have questions about whether you are a Class Member, you may contact the Settlement Administrator at [phone number] or Class Counsel (see Question 10 below).

If you are a Class Member, you are eligible to obtain benefits under the proposed Settlement. The available benefits and process for submitting claims to receive benefits are described in Questions 4 and 6 below.

4. What benefits are provided?

The Settlement provides the following benefits:

Identity Protection Services.

Members of the Class can elect to enroll in Pango Identity Defense Complete identity protection services for a total period of three (3) years. Pango Identity Defense Complete includes credit monitoring from one bureau, dark web monitoring, monthly credit scores, access to credit reports, authentication alerts, high risk transaction monitoring, address change monitoring, and \$1 million in identity theft insurance.

In order to receive the credit monitoring and identity theft protection service, you must submit a valid Claim Form. If you previously signed up for identity protection coverage through St. Francis after receiving notice of the Data Security Incident, you must still submit a valid Claim Form in order to receive an additional three (3) years of identity theft protection coverage under the Settlement. If you did not previously sign up for identity protection services, and you submit a valid Claim Form, you will receive three (3) years of identity theft protection coverage.

To be eligible to receive identity theft protection coverage, you must submit a completed Claim Form by [90 days after Notice Deadline].

Reimbursement for Out-of-Pocket Losses

If you incurred expenses that are actual, documented and traceable to the Data Security Incident, that were not reimbursed by another source, including but not limited to the IDX MyIDCareidentity theft insurance that was initially made available to Class Members by St. Francis or any other credit card, credit monitoring/identity protection or financial service, and submit the Claim Form by the Claim Deadline, you can be reimbursed up to \$150. Examples of reimbursable Out-of-Pocket Losses include:

- costs, expenses, losses or charges incurred a result of identity theft or identity fraud, falsified tax returns, or other possible misuse of your personal information;
- costs associated with accessing or freezing/unfreezing credit reports with any credit reporting agency; or
- other miscellaneous expenses incurred related to any Out-of-Pocket Loss such as notary, fax, postage, copying, mileage, and long-distance telephone charges.

If you submit a claim for Reimbursement of Out-of-Pocket Losses, you must provide the Settlement Administrator with your contact information as well as documents that show what happened and how much you lost or spent so that you can be repaid. You must also state whether you were reimbursed for the loss by another source.

You can, but do not need to, submit a claim for Credit Monitoring in order to submit a claim for Reimbursement of Out-of-Pocket Losses.

A claim for Reimbursement of Out-of-Pocket Losses may be combined with a claim for Reimbursement of Attested Time (discussed below), but the maximum total amount of both of those combined claims is \$150.00.

To be eligible to receive Reimbursement for Out-of-Pocket Losses, you must submit a completed Claim Form by [90 days after Notice Deadline].

Reimbursement for Attested Time

If you submit a claim for Reimbursement of Out-of-Pocket Losses and spent time remedying issues related to identify theft directly caused by the Data Security Incident, you can submit a claim for \$20 per hour for up to four (4) total hours.

If you submit a claim for Reimbursement for Attested Time, you must provide the Settlement Administrator with your contact information as well as the actions you took in response to the Data Breach and the time each action took.

You can, but do not need to, submit a claim for Credit Monitoring in order to submit a claim for Reimbursement of Attested Time.

A claim for Reimbursement for Attested Time must be combined with a claim for Reimbursement of Out-of-Pocket Losses, but the maximum total amount of both of those combined claims is \$150.00.

To be eligible to receive Reimbursement for Attested Time, you must submit a completed Claim Form by [90 days after Notice Deadline].

Security Measures

As part of the settlement, St. Francis will confirm cybersecurity improvements implemented since the Data Security Incident to help prevent against future data incidents. By no later than fourteen (14) days following the Preliminary Approval Order, St. Francis will provide reasonable confirmatory discovery to confirm cybersecurity improvements implemented since the Data Security Incident, including as to the additional training provided, additional security measures (such as password changes) and cybersecurity policies or procedure changes, as well as any additional monitoring that will be done to the system where the relevant PII at issue was located.

5. How will the proposed Settlement impact my legal rights?

If the Court approves the proposed Settlement and you do not opt out of the Settlement, you will no longer be able to sue St. Francis for claims relating to the Data Security Incident (see Question 8 below).

The Settlement Agreement describes the Released Claims specifically, so read it carefully. Section **I** of the Settlement Agreement describes the specific claims you are giving up against St. Francis. You will be releasing St. Francis and all related people as described in Paragraph **53** of the Settlement Agreement. The Settlement Agreement is available at [insert website] or you can request a copy from the Settlement Administrator at [phone]. Talk to Class Counsel (see Question 10 in the section on “The Lawyers Representing You” below) or your own lawyer if you have questions about the Released Claims or what they mean.

SUBMITTING THE CLAIM FORMS TO PARTICIPATE IN THE SETTLEMENT

6. How do I submit the Claim Forms to receive the benefits of the proposed Settlement?

You must submit a Claim Form to receive Settlement benefits. The Claim Form must be submitted online [here] on [90 days after Notice deadline] or by mail postmarked on or before [90 days after Notice deadline].

You can access and submit the Claim Form online by going to [INSERT WEBSITE]. Alternatively, you can submit the Claim Form by printing the forms from the Website or requesting paper copies from the Settlement Administrator, and mailing the completed Claim Form to the Settlement Administrator at [SETTLEMENT ADMINISTRATOR ADDRESS].

You must sign the Claim Form. If you submit your Claim Form online, typing your name in the signature box will constitute your legal signature.

If you move after submitting a Claim Form, it is your responsibility to provide your new address to the Settlement Administrator. The Settlement Administrator will use the most recent address it has on file for providing benefits under the Settlement.

OBJECTING TO THE PROPOSED SETTLEMENT

7. How can I object?

As a Class Member, you can object to the proposed Settlement if you do not think the proposed Settlement is fair, reasonable, or adequate by filing a written objection. You cannot ask the Court to order a larger settlement; the Court can only approve or deny the Settlement. If the Court denies approval, the Class Members will not receive the benefits described in this Notice, and the lawsuit will continue.

You may object to the proposed Settlement in writing and appear at the Final Approval Hearing, either in person or through your own attorney, at your own expense, if the Court allows. If you appear through your own attorney, you are responsible for paying that attorney. All written objections and supporting papers must include:

- i. the name of the proceedings (“*Baires-Rodriguez, et al. v. St. Francis College*”);
- ii. your full name, current mailing address, and telephone number;
- iii. a statement of the specific grounds for the objection, as well as any documents supporting the objection;
- iv. a statement as to whether the objection applies only to you, to a specific subset of the class, or to the entire class;
- v. the identity of any attorney(s) representing you;
- vi. a statement regarding whether you (or your attorney) intends to appear at the Final Approval Hearing;
- vii. all other cases in which you (or your attorney) have filed an objection to any other proposed class action settlement within the past three (3) years; and
- viii. either you or your attorney’s signature.

CLASS MEMBERS MUST MAIL OBJECTIONS TO THE SETTLEMENT ADMINISTRATOR POSTMARKED BY [60 DAYS AFTER THE NOTICE DEADLINE].

If you wish to be heard at the Final Approval Hearing, you must send a signed Notice of Intention to Appear to the Settlement Administrator no later than [sixty (60) days following the Notice

Deadline (or other date required by the Court)]. The Notice of Intention to Appear must include the following:

- i. the name of this Action (“*Baires-Rodriguez, et al. v. St. Francis College*”);
- ii. your full name, address, and telephone number if you intend to appear at the Final Approval Hearing;
- iii. the words “Notice of Intention to Appear” at the top of the document;
- iv. the points you wish to speak about at the Final Approval Hearing; and
- v. the identity (name, address, and telephone number) of any lawyer who will speak on your behalf.

If you object and the Settlement is approved, you will still be entitled to receive benefits under the Settlement that you qualify for, but you must submit a valid Claim Form to do so (see Question 6 above). Submitting a Claim Form does not waive your objection to the Settlement.

If you want to keep the right you may have, if any, to sue St. Francis based on the Data Security Incident, you must exclude yourself from the Settlement Class, as described below in Question 8.

EXCLUDING YOURSELF FROM THE PROPOSED SETTLEMENT

8. How do I opt out of the proposed Settlement?

To opt out and not be part of the Class, you must mail a letter to the Settlement Administrator stating that you wish to do so.

Your opt-out request should state: “I request that I be excluded from the settlement class in *Baires-Rodriguez, et al. v. St. Francis College*, and do not wish to participate in the Settlement.” The letter must include: (1) your full name and current address; and (2) your signature. Your request for exclusion must be postmarked no later than [60 days after Notice Deadline] and must be mailed to:

[SETTLEMENT ADMINISTRATOR ADDRESS]

REQUESTS TO OPT-OUT THAT ARE NOT POSTMARKED ON OR BEFORE [DATE] WILL NOT BE HONORED.

If you opt-out of the Settlement, you cannot also object to the Settlement.

9. If I do not exclude myself, can I sue St. Francis for the same thing later?

No. If you do not exclude yourself from the Settlement, and the Court approves the proposed Settlement, you give up the right you may have, if any, to sue St. Francis and the Released Persons for any claims arising out of the Data Security Incident. See the answer to Question 5 above.

THE LAWYERS REPRESENTING YOU

10. Do I have a lawyer in the case?

The Court has appointed the following lawyers to represent you and the other Settlement Class Members:

J. Nelson Thomas
Jessica L. Lukasiewicz
Thomas & Solomon, LLP
693 East Avenue
Rochester, NY 14607

These lawyers are called Class Counsel. Class Members will not be charged by these lawyers for their work on the case. If you want to be represented by your own lawyer, you may hire one at your own expense.

You can contact Class Counsel at 585-272-0540 or at ContactUs@theemploymentattorneys.com.

11. How will the lawyers be paid?

The Parties have not reached an agreement regarding the attorneys' fees and expenses. In the event the Court grants Final Approval of the settlement, the amount St. Francis will pay in attorneys' fees and expenses will be determined through binding arbitration. **Any attorneys' fees and expenses approved will be paid by St. Francis, and the amount of any such award will not affect the benefits to be provided to eligible Settlement Class Members as described above.**

THE COURT'S FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing on [DATE] in Courtroom _____ at the Supreme Court of the State of New York County of Monroe, 545 Hall of Justice, Rochester, New York 14614, or the hearing may be conducted virtually by online or telephonic means. The date of the hearing may change. If you plan to attend, please check the Settlement website at [WEBSITE]. If the hearing is conducted virtually, instructions for how Class Members may attend the hearing will be posted at [WEBSITE].

At this hearing, the Court will consider whether the proposed Settlement is fair, reasonable and adequate. If there are objections, the Court will consider them. The Court may listen to people who have submitted timely requests to speak at the hearing. The Court may also decide whether the Class Representative will receive a service award up to \$3,500 for her services. At or after the hearing, the Court will decide whether to approve the proposed settlement. We do not know how long these decisions will take.

YOU ARE NOT OBLIGATED TO ATTEND THIS HEARING.

IF YOU DO NOTHING

12. What happens if I do nothing?

If you do nothing, you will be included in the Settlement Class, and will not be able to pursue any other lawsuit against St. Francis and the Released Persons concerning or relating to the Data Security Incident. If you previously signed up for identity protection services when offered by St. Francis, you will not receive any further benefits other than the identity protection services you have already received. If you did not previously sign up for identity protection services, and you do nothing, you will not receive any further benefits from the Settlement.

MODIFICATION OF AGREEMENT

13. Can the Settlement Agreement be Modified?

Prior to entry of the Final Approval Order and Judgment, the Settlement Agreement may, with approval of the Court, be modified by written agreement of the Parties or their counsel, who may only sign with the permission of their clients, without giving any additional notice to the Settlement Class, provided that such modifications are not materially adverse to the Settlement Class. To the extent that Class Members desire to be notified regarding any additional changes as described in this paragraph, or otherwise after the initial notice of the Settlement, the preliminary approval hearing and the Final Approval Hearing, they must file with the Settlement Court in this Action a request for notice, or send such a request in writing to the Settlement Administrator or Class Counsel, who shall maintain a list of all such requests that are received. Class Members who have and who provide an e-mail address agree to electronic notification.

GETTING MORE INFORMATION

14. Are there more details about the proposed Settlement?

This Notice summarizes the proposed Settlement. For precise terms and conditions of the Settlement, please see the Settlement Agreement available at [\[settlement website\]](#).

PLEASE DO NOT CONTACT ST. FRANCIS, THE COURT, OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIMS PROCESS. CLASS COUNSEL OR THE SETTLEMENT ADMINISTRATOR ARE AVAILABLE TO ASSIST YOU SHOULD YOU HAVE ANY QUESTIONS.

Exhibit 4

BACK SIDE

TO: ALL INDIVIDUALS WHO WERE NOTIFIED BY ST. FRANCIS COLLEGE THAT THEIR PERSONAL INFORMATION MAY HAVE BEEN COMPROMISED IN A DATA SECURITY INCIDENT THAT OCCURRED IN NOVEMBER/DECEMBER 2018.

A class action settlement has been proposed in litigation against St. Francis relating to a data security incident that occurred in November/December 2018 (“Data Security Incident”). The case is known as *Baires-Rodriguez et al. v. St. Francis College*, Index No. E2022006634 in the Supreme Court of the State of New York County of Monroe. St. Francis denies all of the claims. You are receiving this notice because St. Francis’ records show that your personal information may have been compromised. **The easiest way to submit a claim under the settlement is online at [website].**

Please read the Class Notice and proposed settlement at [website] to fully understand your legal rights and options.

Under the terms of the settlement, you are eligible to receive:

Identity Theft Protection Coverage: You can sign up for three (3) years of credit monitoring and identity theft protection through Pango Identity Defense Complete. You are entitled to this coverage even if you previously signed up for identity theft protection through St. Francis following the Data Security Incident.

Other Benefits: You may also be eligible to receive Reimbursement for Out-of-Pocket Losses and/or Reimbursement for Attested Time caused by the Data Security Incident. Further information about these benefits and whether you are eligible to receive them can be found at [website].

To be eligible to receive benefits under the settlement, you must submit a completed Claim Form by [90 days after notice is mailed/emailed]. You can access the Claim Form online at [website].

Information on how to object or opt out of the proposed settlement can be found in Sections 7 and 8, respectively, of the Class Notice available at [website]. The deadline for opting out or objecting to the proposed settlement is [60 days from the notice date].

The Court will hold a hearing on [Date] to consider whether to approve the settlement and whether to award \$3,500 to the Class Representative for her service.

If you have any questions or concerns, you can contact Class Counsel at ContactUs@theemploymentattorneys.com or 585-272-0540. You may also contact the Settlement Administrator at [INSERT].

Settlement Administrator

Address

Address

City, State Zip Code

First Class
U.S. Postage
Here

A COURT DIRECTED THIS
NOTICE. THIS IS NOT A
SOLICITATION FROM A
LAWYER.

YOU ARE NOW ELIGIBLE FOR
THREE YEARS OF CREDIT
MONITORING (EVEN IF YOU
RECEIVED MONITORING
THROUGH ST. FRANCIS
PREVIOUSLY) AND YOU MAY
BE ENTITLED TO CASH
PAYMENTS.

Class Member
Address

Exhibit 5

SUPREME COURT
STATE OF NEW YORK MONROE COUNTY

KYRSTEN BAIREZ-RODRIGUEZ, *on behalf of herself*
and all others similarly situated,

Plaintiffs,

v.

ST. FRANCIS COLLEGE,

Defendant.

[PROPOSED] ORDER
GRANTING PRELIMINARY
APPROVAL OF
CLASS ACTION
SETTLEMENT AND
APPROVING NOTICE
PROGRAM

Index No. E2022006634

WHEREAS, a putative class action is pending before the Court entitled *Kyrsten Baires-Rodriguez v. St. Francis College*, Index No. E2022006634;

WHEREAS, Plaintiff, by her attorneys, Thomas & Solomon LLP, having moved this Court for an Order granting Preliminary Approval of Settlement and to set a hearing for final approval of the settlement, and St. Francis College (“St. Francis” or “Defendant”), through its attorneys, Wilson Elser LLP, is not opposing the motion;

WHEREAS, the Parties’ Class Action Settlement Agreement and Release (“the Settlement Agreement”) together with the exhibits attached thereto, sets forth the terms and conditions of the proposed settlement and dismissal of the Action as to Defendant for the claims of Plaintiff and the Settlement Class upon the terms and conditions in the Settlement Agreement, and the Court having read and considered the Settlement Agreement and exhibits attached thereto;

This matter coming before the Court upon the agreement of the Parties and the motion of Plaintiffs seeking preliminary approval of the Settlement Agreement, good cause being shown, and the Court being fully advised in the premises,

IT IS HEREBY ORDERED, DECREED, AND ADJUDGED AS FOLLOWS:

1. Capitalized terms not otherwise defined in this Order shall have the definitions assigned to them in the Settlement Agreement.
2. The Court has jurisdiction over the subject matter of the Action, the Plaintiffs, the Class Members, and Defendant, and venue is proper.

Settlement Class Certification

3. Pursuant to Article 9 of the CPLR, the Court preliminary certifies, for settlement purposes only, a Class consisting of the following:

All persons who were notified by St. Francis as a result of the Data Security Incident perpetrated against St. Francis on or about November/December 2018.

4. The Court hereby appoints Kyrsten Baires-Rodriguez as Settlement Class Representative.
5. The Court hereby appoints Thomas & Solomon LLP as Class Counsel, finding that class counsel is well-qualified and experienced.
6. Plaintiffs have moved the Court for an order approving the settlement of the Action in accordance with the Settlement Agreement, which, together with the documents incorporated therein, sets forth the terms and conditions for a proposed settlement and dismissal of the Action with prejudice against Defendant. The Court, having read and considered the Settlement Agreement and having received the Parties' arguments in support of the Settlement Agreement, hereby preliminarily approves the Settlement Agreement in its entirety subject to the Final Approval Hearing.
7. The Court preliminarily finds the requirements for class certification under Article 9 of the CPLR are satisfied for the reasons set forth in the Plaintiff's Motion for Preliminary Approval. The Settlement Class, for purposes of settlement, satisfies the five statutory requirements of CPLR § 901, numerosity, predominance, typicality, adequate and superiority. Further, the Court preliminarily holds that, for purposes of settlement, CPLR § 902 is similarly satisfied.
8. The Court finds that, subject to the Final Approval Hearing, the Settlement Agreement falls within the range of possible approval as fair, reasonable and adequate and in the best interests of the Settlement Class as to their claims against Defendant.

Notice and Administration

9. American Legal Claim Services LLC is hereby appointed as Settlement Administrator and shall perform all the duties of the Settlement Administrator as set forth in the Settlement Agreement and this order.
10. The Court finds that the notice plain and all forms of Notice to the Class as set forth in the Settlement Agreement and the exhibits (the “Notice Program”) is reasonably calculated to, under all circumstances, apprise the members of the Settlement Class of the pendency of the action, the certification of the Settlement Class, the terms of the Settlement Agreement, and the right of members to object to the Settlement or to exclude themselves from the Class. The Notice Program is consistent with the requirements of Article 9 of the CPLR and constitutes best notice practicable under the circumstances.
11. The Court thus hereby approves the Notice Program, including the proposed Notice documents attached as Exhibits 2 to 4 to the Settlement Agreement. The Court also approves the plan for settlement administration, including the Claim Form attached as Exhibit 1 to the Settlement Agreement. The Parties may, by agreement, revise the Notice and Claim Form documents in ways that are not material, or in ways that are appropriate to update those documents for purposes of accuracy or formatting.
12. Two (2) days after the Preliminary Approval hearing date, St. Francis prepared and provided to the Settlement Administrator a list of names, last known addresses, and last known electronic mail addresses of the Class Members. Settlement Agreement § III, ¶ 39(a).
13. Within twenty-one (21) days following entry of this Court’s Order preliminarily approving the Settlement, the Settlement Administrator shall send Settlement Electronic Notice to the Class Members by email (with read receipt requested), where valid email addresses are available. Where valid email addresses are not available or for whom the Settlement Administrator did not receive a read receipt, the Settlement Administrator shall send Settlement Postcard Notice by U.S. Mail. *Id.* at § III, ¶ 39(b).
14. For any Class Member with a valid email address, but who has not indicated read receipt within seven (7) days of being emailed, the Settlement Administrator shall send Settlement Postcard Notice. *Id.*
15. Within ninety (90) days after the Settlement Administrator emails the Settlement Electronic Notice or mails the Settlement Postcard notice, any Class Member who wishes to submit a Claim Form must do so consistent with the Settlement Agreement. *Id.* at § I, ¶ 5; § III, ¶¶ 39(b); 41.
16. Within sixty (60) days after the Settlement Administrator emails the Settlement Electronic Notice or mails the Settlement Postcard notice, any Class Member

who wishes to submit an Opt-Out Statement, and/or submit objections, must do so consistent with the Settlement Agreement. *Id.* at § I, ¶¶ 16; 17; § III, ¶¶ 44; 46.

17. All Notices shall be sent by the Settlement Administrator to all Class Members using the email addresses and addresses provided by St. Francis or any alternate addresses as found by the Administrator through the National Change of Address database.
18. Any opt-out request must comply with the exclusion procedures set forth in the Settlement Agreement. Any member of the Settlement Class who timely requests exclusion consistent with these procedures may not file an objection to the Settlement and shall be deemed to have waived any rights or benefits under the Settlement. Class Members who fail to submit a valid and timely request for exclusion shall be bound to all terms of the Settlement Agreement and any Final Judgment.
19. Any member of the Settlement Class who has not timely filed an opt-out request may file a timely objection to the granting of the final approval of the Settlement. Any objection must comply with the procedures set forth in the Settlement Agreement.

Final Approval Hearing

20. Not later than eight (8) calendar days before the Final Approval Hearing, Plaintiff shall file a motion for final approval of the Settlement Agreement.
21. This Court shall hold a Final Approval Hearing to determine the fairness of this Settlement, as set forth in the Settlement Agreement, on _____ at _____ am. The date and time of the Final Approval Hearing shall be set forth in the Notice of Settlement, but the Final Approval Hearing shall be subject to adjournment by the Court without further notice to the Class Members other than that which may be posted by the Court. Further, at the discretion of the Court, the Final Approval Hearing may also be conducted remotely via Zoom, Microsoft Teams or Skype.

Miscellaneous Provisions

22. All Notices detailed in the Settlement Agreement constitute the best notice practicable under the circumstances, and such notices constitute valid, due and sufficient notice to the Class Members, complying fully with the requirements of due process and applicable state and federal law, including CPLR § 904.
23. Settlement Class Members shall be bound by all determinations and judgments concerning the Action and/or Settlement Agreement, whether favorable or unfavorable.

24. All case deadlines are stayed and suspended until further notice from the Court except for such actions as are necessary to implement the Settlement Agreement and this Order.
25. Counsel for the Parties are hereby authorized to utilize all reasonable procedures in connection with the administration of the Settlement which are not materially inconsistent either with this Order or the terms of the Settlement Agreement.
26. If the Settlement does not receive final approval, the Parties will be returned to their respective positions *nunc pro tunc* as those positions existed immediately prior to the execution of the Settlement Agreement. This Order will become null and void, and shall not be considered in evidence.

IT IS SO ORDERED.

Dated: _____

Exhibit 6

SUPREME COURT
STATE OF NEW YORK MONROE COUNTY

KYRSTEN BAIRE-RODRIGUEZ, *on behalf of herself
and all others similarly situated,*

Plaintiffs,

v.

ST. FRANCIS COLLEGE,

Defendant.

[PROPOSED] FINAL
APPROVAL ORDER AND
JUDGMENT

Index No. E2022006634

WHEREAS, Plaintiff, by her attorneys, Thomas & Solomon LLP, having moved this Court for an Order granting final approval of class action settlement, and St. Francis, through its attorneys, Wilson Elser, LLP, having appeared at the hearing;

WHEREAS, this Court granted preliminary approval of the parties' Settlement Agreement in the above-captioned action ("Action") on [INSERT DATE], ("Preliminary Approval Order");

WHEREAS, notice to the class members ("Class Members") was sent in accordance with the Preliminary Approval Order providing an opportunity for Class Members to receive benefits under the Settlement Agreement, opt-out, or submit objections;

WHEREAS, [XX] Class Members submitted objections and [XX] Class Members submitted Opt-Out Statements;

NOW, upon the reading of the Affirmation of [INSERT ATTORNEY NAME] executed on [INSERT DATE] and annexed exhibits and memorandum of law in support of Plaintiff's motion for final approval of class action settlement, and after hearing counsel for all of the Parties at the [INSERT FINAL APPROVAL HEARING DATE] fairness hearing and

after due deliberation having been held thereon, the Court grants final approval of the Settlement Agreement, and hereby find and orders for purposes of settlement only:

1. Capitalized terms used in this Order and Judgment and not otherwise defined herein shall have the definitions assigned to them in the Settlement Agreement.
2. This Court has jurisdiction over the subject matter of the action, including as to enforcement of any arbitrator determinations regarding attorneys' fees and expenses and personal jurisdiction over Plaintiff Baires-Rodriguez, the Class Members, and the Releasees.
3. The Class should be certified under Article 9 of the CPLR for settlement purposes only, consisting of:

All persons who were notified by St. Francis as a result of the Data Security Incident perpetrated against St. Francis on or about November/December 2018.
4. For settlement purposes only, Plaintiff Baires-Rodriguez is appointed as the Class Representative, Thomas & Solomon LLP is appointed as Class Counsel, and American Legal Claim Services LLC is appointed and shall continue to serve as Settlement Administrator.
5. The Court hereby fully, finally and unconditionally approves the Settlement embodied in the Settlement Agreement as being a fair, reasonable and adequate settlement and compromise of the claims asserted in the Action.
6. The Court finds and concludes that the Notices, Settlement website, and all other aspects of notice, opt-out, objection, and claims submission procedures set forth in the Settlement fully satisfy the requirements of due process, were the best practicable under the circumstances, and support the Court's exercise of jurisdiction over the Settlement Class and Class Members.
7. The Notice adequately informed Class Members of the Final Approval Hearing, the ability to opt-out, object, submit a Claim Form, as well as the request for a service award for the Settlement Class Representative.
8. Certain persons who fall within the definition of the Settlement Class have requested to opt-out of the Settlement and have complied with the procedures under the Settlement. These persons are listed in the attached Exhibit A and they will not be bound by the terms of the Settlement Agreement.
9. The Court finds that the Settlement is the product of arm's-length settlement negotiations.

10. The Court hereby orders that the Settlement Agreement shall be implemented in accordance with its terms and conditions pursuant to the Settlement Agreement.
11. In accordance with Paragraph 35 of the Settlement Agreement, Settlement Class Representative is hereby awarded Three Thousand Five-Hundred Dollars and Zero Cents (\$3,500.00), to be paid as specified in the Settlement Agreement.
12. Upon the Effective Date, the Action shall be, and hereby is dismissed with prejudice in its entirety as to the Defendants, and all of the claims of the Settlement Class Members shall be, and hereby are, dismissed and released pursuant to the Settlement Agreement.
13. Each Settlement Class Member is bound by this Judgment and Order, including, without limitation, the release of certain claims as set forth in the Settlement Agreement.
14. The Court hereby approves the Settlement (as set forth in the Settlement Agreement), the Release, and all other terms in the Settlement Agreement, as fair, just, reasonable, and adequate as to the Parties and the Settlement Class. The Parties are directed to perform in accordance with the terms set forth in the Settlement Agreement. However, without further Court approval, the Parties may jointly agree to make changes to the Settlement Agreement, including in the manner in which the claims process shall be administered, provided that those changes do not reduce the benefits to which the Settlement Class Members may be entitled, increase the burden on Settlement Class Members in making a claim, or otherwise materially alter the Parties' obligations under the Settlement.
15. By this Judgement, the Releasors shall be deemed to have (and by operation of this Judgement shall have) fully, finally, and forever released all Released Claims against the Releasees, excluding as to attorneys' fees and expenses as set forth in the Settlement Agreement.
16. The Court has considered all of the documents filed in support of the Settlement, and has fully considered all matters raised, all exhibits and affidavits filed, all evidence received at the Final Approval Hearing, all other papers and documents comprising the record herein, and all oral arguments presented to the Court.
17. The Court hereby finds that there is no just reason for delay of entry of this Judgment and hereby directs its entry.
18. In the event that the Settlement Agreement does not become effective in accordance with the Settlement Agreement, then this Judgment and Order shall be rendered null and void to the extent provided by and in accordance with the

Settlement Agreement and shall be vacated, and in such event, all orders entered in connection herewith shall be null and void to the extent provided by and in accordance with the Settlement Agreement.

Without affecting the finality of this Judgment in any way, this Action shall remain open and the Court hereby retains continuing jurisdiction over (a) implementation of this Settlement Agreement; (b) disposition of the settlement funds; and (c) all parties hereto for the purpose of construing, enforcing and administering the Settlement Agreement and this Judgment.

IT IS SO ORDERED this ____ day of _____, 2022.
